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VIRGINIA OIL AND GAS BOARD

HEARING OF DECEMBER 13, 1994

9:00 A.M.

AT THE SOUTHWEST VIRGINIA 4-H CENTER
ABINGDON, VIRGINIA

Appalachian Court Reporting Services, Inc.

P. O. Box 833

Abingdon, Virginia

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December 13, 1994

This matter came on to be heard before the Virginia Gas & Oil Board on this the 13th day of December, 1994 at the Southwest Virginia 4-H Center, Hillman Highway, Abingdon, Virginia pursuant to Section 45.1-361.19.B and 45.1-361.22.B of the Code of Virginia.

MR. CHAIRMAN: Good morning. My name is Benny Wampler and I'm Deputy Director for the Virginia Department of Mines, Minerals & Energy and Chairman of the Gas & Oil Board. As we usually do, we'd like to have our members introduce themselves to you starting with Dennis.

(MEMBERS INTRODUCED.)

ITEM I, II, VIII and XI

1
2
3 MR. CHAIRMAN: The first item on today's agenda is a petition
4 from Equitable Resources Exploration for force pooling of
5 interests in conventional drilling unit to be served by
6 proposed well V-2624. This is docket number VGOB-
7 94/07/19-0459. I would ask the parties that wish to
8 address the Board in this matter to come forward at this
9 time.

10 MR. KAISER: Mr. Chairman and members of the Board. Jim Kaiser
11 on behalf of Equitable Resources Exploration. Before we
12 get started on Item I with the Board's permission I have
13 a few announcements that effect the rest of today's
14 docket.

15 MR. CHAIRMAN: Okay.

16 MR. KAISER: At this time we'd like to make a motion for a
17 continuance on item I... that being VGOB-94/08/16-0461,
18 and for a continuance on item VIII which is
19 VGOB-94/11/13-0487;

20 MR. CHAIRMAN: You are requesting to withdraw?

21 KAISER: Yes. And we have a request to withdraw Item XI.
22 We have sent Mr. Fulmer a letter to that effect and have
23 also sent letters to all the unleased respondents in the
24 unit as a courtesy to keep them from coming up here
25 today. They should have received those on Thursday or

1 Friday of last week.

2 MR. CHAIRMAN: The docket number for Item XI that is being
3 requested to be withdrawn is VGOB-94/12/13-0490. Does
4 anyone here today have any objection or any problem with
5 the continuance and withdrawal as requested? Any
6 questions, members of the Board? Item II and Item VII on
7 the agenda will be continued and Item XI will be with-
8 drawn.

9 MR. FULMER: Mr. Chairman, proceed on the first item because I
10 found these concerning the first case.

11 MR. KAISER: We'll have another revision to that, Mr. Fulmer.

12 MR. CHAIRMAN: Are there any others that wish to address the
13 Board on the first item, docket number VGOB-94/07/19-
14 0459? The record will show there are none. You may
15 proceed.

16 MR. KAISER: Our witnesses in this matter will be Mr. George
17 Heflin who will be a witness on land matters for us for
18 the first time and Mr. Bob Dahlin. If they could please
19 be sworn at this time.

20 COURT REPORTER: Swears witnesses.)

21 MR. KAISER: We have as our witness for the first time today
22 Mr. George Heflin. He'll be taking Mr. Dennis Baker's
23 name as our expert witness in matters of land and lease
24 acquisition and due diligence.

25

1 GEORGE HEFLIN

2 Witness who, after having been duly sworn, was examined and
3 testified as follows:

4
5 DIRECT EXAMINATION
6

7 BY MR. KAISER:

8 Q. Mr. Heflin, if you could state your name for the record,
9 who you are employed by and in what capacity and then
10 just go through your education and work experience as
11 depicted on your resume for the Board, please?

12 A. My name is George B. Heflin. I'm employed by Equitable
13 Resources Exploration out of Kingsport, Tennessee as
14 landman, lease acquisitions and pipelines. My education-
15 al experiences are business courses through Salem College
16 at Salem, West Virginia, business management courses with
17 West Virginia Westland College, Buckhannon, West Virgin-
18 ia. I'm a member of the Eastern Mineral Law Foundation
19 out of Martinsburg, West Virginia where I attended various
20 seminars of oil and gas related matters. I've had land
21 appraisal courses through International Rightofway
22 Association. I'm a member of the National Association of
23 Professional Landmen, also the Appalachian Association of
24 Professional Landmen. I've had various educational
25 courses dealing in minerals and land. My work experience

1 started as an equipment operator for Union Drilling,
2 Incorporated where I had various experiences in product-
3 ion matters. In 1981 I went to work in their department
4 as a landman. My responsibilities were obtaining oil and
5 gas leases, lease renewals, pipeline right-of-ways. I
6 worked with surface owners on well sites, pipelines,
7 roads, damage settlements in West Virginia and Pennsyl-
8 vania. In 1987 I was promoted to the position of
9 supervisor of land leasing and right-of-way where I
10 supervised other land agents, contract land agents,
11 worked with permits, surface owners, coal companies,
12 lease acquisitions, lease renewals. In 1987 I was
13 transferred to Peko Resources in Kingsport, Tennessee,
14 position as district landman south. My responsibilities
15 were with the operations department, land operations
16 where I supervised the Kentucky land operations out of
17 the Hazard office and also the Kingsport office for
18 drilling programs, negotiations with surface owners, coal
19 companies. From 1989 to the present I've been with
20 Equitable Resources Exploration. I've been district
21 landman south, landman pipelines, landman pipelines and
22 lease acquisitions. I've served in various capacities,
23 supervising Kentucky land operations, supervising the
24 pipeline right-of-way, acquisitions department for
25 Virginia and am now in the capacity of lease acquisitions

1 supervisor as well as pipeline right-of-way supervisor
2 working with contract land agents, mineral owners, coal
3 companies and settlements for right-of-ways.
4 Q. So, Mr. Heflin, you've been employed in the oil and gas
5 industry for fifteen years come this March, is that
6 correct?
7 A. Yes, sir.
8 Q. And the bulk of your experience in the industry has been
9 primarily lease negotiation and negotiations with mineral
10 interest owners, surface owners, coal companies and
11 pipeline right-of-way acquisitions?
12 A. That's correct.
13 MR. RAISER: Mr. Chairman and members of the Board, at this
14 time we'd submit Mr. Heflin as an expert witness on these
15 matters.
16 MR. CHAIRMAN: Any questions, members of the Board? Any
17 objection? Okay. He's accepted.
18 Q. (Mr. Raiser continues.) Mr. Heflin, do your respons-
19 ibilities include the lands involved here and in the
20 surrounding area?
21 A. Yes.
22 Q. Are you familiar with Equitable's application for the
23 establishment of a drilling unit and a pooling order for
24 SREX Well V-2804 which was dated June 17th, 1994?
25 A. Yes, I am.

1 Q Is Equitable seeking to force pool the drilling rights
2 underlying the drilling and spacing units as depicted at
3 Exhibit A of the application?
4 A. Correct.
5 Q Has Equitable applied for a permit and is a permit now
6 pending before the DMME and when was that permit applied
7 for?
8 A. November 14th, 1994.
9 Q. Does Equitable own drilling rights in the unit involved
10 here?
11 A. Yes, they do.
12 Q. Does the proposed unit depicted at Exhibit A include all
13 acreage within 2,640 feet, that is a 1,320 foot radius of
14 proposed well V-2824?
15 A. Yes.
16 Q. What was the interest of Equitable in the unit at the
17 time of application?
18 A. At the time of application it was 60.37 percent leased.
19 At this present time we've picked up additional leases
20 and our interest is 60.6894 percent.
21 What is the unleased interest in the unit at this time?
22 A. At this time it's 39.3016 percent.
23 Q. RAISE40 MR. Chairman, at this time I'm going to submit a
24 revised Exhibit B to the Board and we'll go through this
25 and denote those respondents that will be dismissed and

1 denote some ownership changes and marital status changes.

2 Q. (Mr. Kaiser continues.) Mr. Heflin, are all unleased
3 parties set out at revised Exhibit B?

4 A. Yes, they are.

5 Q. Prior to filing the application were efforts made to
6 contact each of the respondents and an attempt made to
7 work out an agreement regarding the development of the
8 unit involved?

9 A. Yes, sir.

10 Q. Subsequent to the filing of the application have we
11 continued to attempt to reach an agreement with the
12 respondents listed at revised Exhibit B?

13 A. Yes, we have.

14 Q. As a result of these efforts have you acquired other
15 leased from any of the respondents?

16 A. Yes, we have.

17 Q. At this time let's go through the entire revised exhibit
18 that the Board has in front of them and list the addi-
19 tional leases that have been acquired and also list any
20 other pertinent changes that are reflected on this
21 exhibit as opposed to the exhibit that the Board had
22 prior to the hearing. It you will just do that page by
23 page for them.

24 A. On Page 1, tract one and two, after we acquired the lease
25 from Robertson we added his initial because that's the

1 way he signs his name; Robert R. On Page 3, number 13,
2 James Hilcocks. We acquired that lease.
3 Q. So James Hilcocks is now leased to EREX?
4 A. Yes. On tract 16 we've had a change of ownership due to
5 our title information. The tract will be shown now in
6 the ownership of First Union National Bank. We are now
7 in the process of working with them to obtain a lease.
8 MR. CHAIRMAN: Is it First Union National or --
9 THE WITNESS: First Union Bank. I'm sorry.
10 Q. (Mr. Kaiser continues.) And in tract 18?
11 A. Tract 18, that was a change of ownership. Elsie Counts
12 is deceased and her son Donnie and his wife Patty are now
13 the owners of record.
14 MR. LEWIS: What?
15 THE WITNESS: She's deceased and they are now the owners of
16 record on tract 18.
17 MR. LEWIS: You don't have that under lease?
18 THE WITNESS: No, sir.
19 Q. (Mr. Kaiser continues.) The next change would be on Page
20 6, tract 18. That's a name change from Robert to
21 Gerald Stiltner.
22 A. Yes.
23 Q. On tract 10 there is also a name change?
24 A. We had a mistype where we had Robert Darrel O'Quinn and
25 it should be Robert Darrel Deel.

1 Q. The next would be Page 7, tract 32?

2 A. That is a change of ownership. Angita Willis had deeded
3 this to her daughter Linda Lou Willis. We're also trying
4 to work with her at this particular time.

5 Q. Subsequent to the filing of the initial application,
6 Tract 33 we had originally listed the Patton and Lewis
7 heirs as being unknown. We have identified those heirs
8 and have picked up some leases on some of those heirs.
9 That covers several pages -- through Page 16. The next
10 change is in tract 34.

11 A. Linda Lou Willis, that is the same as we spoke of before.
12 her mother Angita had deeded this particular piece of
13 property to her.

14 Q. The next change is a change in ownership in tract 47,
15 Page 18?

16 A. That was at one point Dana T. Owens'. That property has
17 exchanged hands and is now Mavis J. O'Quinn.

18 Q. Another conveyance that was made subsequent to the filing
19 of the application in June. Tract 50 would be the
20 change?

21 A. Tract 50, we've acquired a lease since our original
22 application.

23 Q. Tract 50?

24 A. Tract 50, we discovered by our conversations with Charlie
25 Deel and also through the title opinions that Charlie and

1 Ada Deel had a life estate and their son James Melvin
2 Deel had the remaindermen. We've since listed him on
3 here and also have picked up the lease on his remainder-
4 men.
5 Q. Then the next change is in tract 64 which is on Page 21?
6 A. That's a change of address and marital status.
7 Q. And tract 65?
8 A. Tract 65 is a change of ownership. We had once had
9 Menela Counts Deel. After further investigation Linda
10 Lou Willis is the owner of that particular tract.
11 Q. And tract 66 on Page 22?
12 A. Tract 66, we have acquired all leases in that tract.
13 Q. So that tract was formerly unleased and is now leased to
14 EREX?
15 A. That's correct.
16 MR. KAISER: Mr. Chairman and members of the Board, those are
17 the additional leases we have picked up since the initial
18 filing of the application and any additional ownership
19 changes or status changes that subsequent title work and
20 due diligence have revealed.
21 MR. CHAIRMAN: Any questions on this, members of the Board, on
22 revised Exhibit B? Have you labeled both of those, the
23 one that you handed out, Tom, and then this one --
24 MR. FULMER: Yeah.
25 MR. CHAIRMAN: The one you handed out had revised wrote above

1 the date. This one has revised at the top of the page.
2 This is the official one?
3 MR. FULMER: Yeah.
4 MR. LEWIS: Are you all doing everything you can to try to get
5 these other -- parts you don't have leased?
6 THE WITNESS: Yes, sir. We're continually talking with the
7 people trying to acquire their lease interests -- to try
8 to lease their interests. Like I said, I have a land
9 agent at this particular time and that's his well and
10 we're talking with people, mailing documents to them and
11 trying to acquire and obtain rights from them.
12 MR. CHAIRMAN: Other questions? You may proceed.
13 Q. (Mr. Kaiser continues.) Mr. Heflin, were any efforts
14 made to determine if the individual respondents were
15 living or deceased and their whereabouts and if deceased,
16 were efforts made to determine the names and addresses
17 and whereabouts of the successors to any deceased
18 individual respondents?
19 A. Yes.
20 Were reasonable and diligent efforts made and sources
21 checked to identify and locate unknown heirs, to include
22 primary sources such as deed records, probate records,
23 assessors records, treasurers records and in addition
24 secondary records such as telephone directories, city
25 directories, family and friends?

1 A. Yes, there were.

2 Q. In your professional opinion was due diligence exercised
3 to locate each of the respondents named herein?

4 A. Yes.

5 Q. Are the addresses set out in the final revised Exhibit B
6 to the application the last known addresses for the
7 respondents?

8 A. That's correct.

9 Q. With the exception of those parties which you are hereby
10 dismissing from the proceeding are you requesting this
11 Board to force pool all other unleased interests listed
12 in revised Exhibit B?

13 A. Yes.

14 Q. Does Equitable seek to force pool drilling rights of each
15 individual respondent if living and if deceased, the
16 unknown successor or successors to any deceased individu-
17 al respondent?

18 A. Yes.

19 Q. Is Equitable seeking to force pool the drilling rights of
20 the person designated as trustee if acting in the
21 capacity of trustee and if not acting in such capacity is
22 Equitable seeking to force pool the drilling rights of
23 the successor of such trustee?

24 A. Yes, we are.

25 Q. Mr. Herlin, are you familiar with the fair market value

1 of drilling rights in the unit here and in the surround-
2 ing area?

3 A. Yes.

4 Q. Would you advise the Board as to what those are?

5 A. A \$5 consideration, five year term, one-eighth royalty.

6 Q. Did you gain your familiarity by acquiring oil and gas
7 leases and other agreements involving the transfer of
8 drilling rights in the unit involved here and in the
9 surrounding area?

10 A. Yes.

11 Q. In your opinion do the terms you have testified to
12 represent the fair market value of and the fair and
13 reasonable compensation to be paid for drilling rights
14 within the unit?

15 A. Yes, they do.

16 Q. Based on that and as to the respondents who have not
17 voluntarily agreed to lease do you recommend that the
18 respondents listed at revised Exhibit B who remain
19 unleased be allowed the following options with respect to
20 their ownership interest within the unit: 1) Participa-
21 tion. 2) A cash bonus of \$5 per net mineral acre plus a
22 one-eighth of eight-eighths royalty. 3) In lieu of the
23 cash bonus and one-eighth of eight-eighths royalty share
24 in the operation of the well on a carried basis as a
25 carried operator under the following conditions; Such

1 carried operator shall be entitled to the share of
2 production from the tracts pooled accruing to his
3 interest but exclusive of any royalty or overriding
4 royalty reserved in any leases, assignments thereof or
5 agreements relating thereto of such tracts but only after
6 the proceeds allocable to his share equal A) 300 percent
7 of the share of such costs allocable to the interest of
8 the carried operator of a leased tract or portion thereof
9 or B) 200 percent of the share of such costs allocable to
10 the interest of the carried operator of an unleased tract
11 or portion thereof?

12 A. Yes.

13 Q. Do you recommend the order provide that the elections by
14 respondents be in writing and sent to the applicant at
15 Equitable Resources Exploration, 1989 East Stone Drive,
16 P.O. Box 1983, Kingsport, Tennessee, 37662-1983, attention
17 George Hefflin, regulatory?

18 A. That's correct.

19 Q. Should this be the address for all communications with
20 the applicant concerning the force pooling order?

21 A. Yes.

22 Q. Do you recommend the force pooling order provide that if
23 no written election is properly made by a respondent then
24 such respondent shall be deemed to have elected to the
25 cash royalty option in lieu of participation?

1 A. Yes.

2 Q. Should the unleased respondents be given 30 from the date
3 of the order to file written elections?

4 A. Yes.

5 Q. If an unleased respondent elects to participate should
6 that respondent be given 45 days to pay the applicant for
7 respondent's proportionate share of well costs?

8 A. Correct.

9 Q. Does the applicant expect the party electing to partici-
10 pate to pay in advance that party's share of the complet-
11 ed well costs?

12 A. Yes.

13 Q. Should the applicant be allowed 60 days following the
14 recordation date of the order and thereafter annually on
15 that date until production is achieved to pay or tender
16 any cash bonus becoming due under the force pooling
17 order?

18 A. Yes.

19 Q. Do you recommend the force pooling order provide that if
20 a respondent elects to participate but fails to pay
21 respondent's proportionate share of well costs satisfact-
22 ory to the applicant for the payment of well costs then
23 the respondent's election to participate shall be treated
24 as having been withdrawn and void and such respondent
25 should be treated just as if no initial election had been

1 filed under the force pooling order?

2 A. That's correct.

3 Q. Do you recommend the force pooling order provide that
4 where a respondent elects to participate but defaults in
5 regard to payment of well costs any cash sum becoming
6 payable to such respondent be paid within 60 days after
7 the last date on which such respondent could have paid or
8 made satisfactory arrangements for the payment of well
9 costs?

10 A. Yes.

11 Q. Do you recommend the force pooling order provide that if
12 a respondent refuses to accept any payment due, including
13 any payment due under said order or any payment of
14 royalty or cash bonus or said payment cannot be paid to
15 the party for any reason or there is a title defect in
16 the respondent's interest that the operator create an
17 escrow account for the respondent's benefit until the
18 money can be paid to the party or until the title defect
19 is cured to the operator's satisfaction?

20 A. Yes.

21 Q. Mr. Heilin, who should be named the operator under the
22 force pooling order?

23 A. Equitable Resources Exploration.

24 MR. KAISER: Mr. Chairman, that's all I have for this witness
25 at this time.

1 MR. CHAIRMAN: Any questions, members of the Board, of this
2 witness?

3 MS. RIGGS: Could you repeat the address for the mailing of
4 elections?

5 MR. KAISER: Sure. 1989 East Stone Drive, P.O. Box 1983,
6 Kingsport, Tennessee, 37662-1983, attention George
7 Heflin.

8 MR. CHAIRMAN: Any other questions?

9 (Witness stands aside.)

10 MR. CHAIRMAN: You may call your next witness.

11 MR. KAISER: I would call Mr. Dahlin at this time and I'd
12 remind him that he's been sworn.

13
14 ROBERT A. DAHLIN, II

15 a witness who, after having been previously sworn, was
16 examined and testified as follows:

17
18 DIRECT EXAMINATION

19
20 BY MR. KAISER:

21 Q. Mr. Dahlin, could you please state your name for the
22 record, who you're employed by and in what capacity?

23 A. My name is Robert A. Dahlin, II. I'm employed by EREX as
24 an production specialist.

25 Q. Have you previously testified before the Virginia Gas &

1 Oil Board and have your qualifications as an expert
2 witness previously been accepted by the Board?

3 A. Yes, sir, they have.

4 Q. Do your responsibilities include the lands involved here
5 and in the surrounding area?

6 A. Yes, sir.

7 Q. Are you familiar with the proposed exploration and
8 development of the unit involved here under the appli-
9 cant's proposed plan of development?

10 A. Yes, sir, I am.

11 Q. What is the total depth of the proposed initial well
12 under the applicant's plan of development?

13 A. 4,600 feet.

14 Q. Will this be deep enough to test all formations consist-
15 ent with the well work permit?

16 A. Yes, sir. It will.

17 Q. Is the applicant requesting the force pooling of convent-
18 ional gas reserves not only to include the designated
19 formations but any other formations excluding coal
20 formations which may be between those formations design-
21 ated from the surface to the total depth drilled?

22 A. Yes, sir, we are.

23 Q. Is this initial well at a legal location?

24 A. It is.

25 Q. What are the estimated reserves of the unit?

1 A. We anticipate 750 million cubic foot of gas.

2 Q. Are you familiar with the well costs for the proposed

3 initial unit well under the applicant's plan of develop-

4 ment?

5 A. Yes, sir, I am.

6 Q. Have you reviewed, signed and submitted an AFE to the

7 Board?

8 A. I have.

9 Q. Was this AFE prepared by an engineering department

10 knowledge in the preparation of AFEs and knowledgeable in

11 regard to well costs in this area?

12 A. Yes, sir.

13 Q. Does the AFE represent a reasonable estimate of the well

14 costs for the proposed unit well under applicant's plan

15 of development?

16 A. Yes, sir, it does.

17 Q. Would you please state both the dry hole costs and

18 completed well costs for the Board?

19 A. Dry hole costs are \$125,950 with completed well costs

20 \$247,150.

21 Q. Do these costs anticipate a multiple completion?

22 A. Yes.

23 Q. Does the AFE include a reasonable charge for supervision?

24 A. Yes, sir.

25 Q. Mr. Denham, in your professional opinion will the

1 granting of this application be in the best interest of
2 conservation, prevention of waste and the protection of
3 correlative rights?

Q. Yes, sir.

5 MR. KAISER: I have no further questions of this witness at
6 this time, Mr. Chairman.

7 MR. CHAIRMAN: Questions, members of the Board?

8 MR. EVANS: One question for clarification. You've got 3,000
9 foot of gathering line?

10 THE WITNESS: Yes, sir.

11 MR. EVANS: At almost \$27,000?

12 THE WITNESS: Approximately 99 a foot. This is again over in
13 the Russell Fork fault area along the river. It's a
14 step-out to the north and the east. We have basically no
15 wells within two miles to the north and it's just real
16 rugged and rough and a little far out.

17 MR. EVANS: So you're on the edge of your program to trying to
18 extend?

19 THE WITNESS: We're just stepping out, yes.

20 Q. CHAIRMAN: Any other questions, members of the Board, on
21 the AFE or anything this witness has testified to?

22 (Witness stands aside.)

23 CHAIRMAN: Do you have anything further?

24 MR. KAISER: Nothing further, Mr. Chairman.

25 MR. CHAIRMAN: I don't have my bifocals with me this morning

1 and I may need to go back to the previous witness, but on
2 the plat that you have can you locate for me -- help me
3 locate tract 66?

4 MR. EVANS: Right at the top.

5 MR. CHAIRMAN: Okay. There it is. Thank you.

6 MR. HEFLIN: Tract 66 is a cemetery lot.

7 MR. CHAIRMAN: I've got it. Thank you.

8 MR. HEFLIN: With all the heirship involved.

9 MR. CHAIRMAN: There's a lot. Any other questions, members of
10 the Board, on this case? Do we have a motion?

11 MR. EVANS: I move that we grant the petition.

12 MR. KELLY: Second.

13 MR. CHAIRMAN: A motion and a second. Any further
14 discussion? All in favor signify by saying yes.

15 (ALL AFFIRM.) Opposed say no. (NONE.) It's a unanimous
16 approval. Thank you. Item II was continued.

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ITEM III

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3 MR. CHAIRMAN: Item III is a petition from Ratliff Gas Company
4 for an order establishing a drilling unit and force
5 pooling coalbed methane drilling unit identified as U-19
6 in the Oakwood Field in the Vansant Quadrangle. This is
7 docket number VGOB-94/10/24-0475. We'd ask the parties
8 that wish to address the Board in this matter to come
9 forward at this time.

10 MR. MULLINS: My name is Tom Mullins. I'm with the Street Law
11 Firm in Grundy, Virginia. I'm here today representing
12 Ratliff Gas Company and Wyatt Ratliff pursuant to the
13 application filed by that company for unit U-19. I
14 apologize to the Board. I may not be able to talk very
15 long. I know that's unusual for a lawyer, but I've been
16 sick.

17 MR. PRUITT: Good morning, Mr. Chairman, gentlemen. I am
18 Thomas Pruitt. I'm an attorney in Grundy, Virginia and I
19 represent the Wyatt Harrison Trust, Mr. Landon R. Wyatt
20 is trustee. We are designated as one of the claimants
21 pursuant to this application.

22 MR. SWARTZ: Mark Swartz. I represent Buchanan Production
23 Company and (Inaudible.) Coal Company, both of whom are
24 listed in the application as potential claimants.

25 MR. RATLIFF: I'm Wyatt Ratliff, president of Ratliff Gas.

1 MR. PRUITT: Mr. Chairman, may I introduce Mr. Landon Wyatt?
2 MR. CHAIRMAN: Yes.
3 MR. PRUITT: Thank you.
4 MR. MULLINS: Mr. Chairman, I would like to make some intro-
5 ductory remarks, but since there are other parties here
6 today pursuant to the application if there are going to
7 be any objections if we could get those before the Board
8 up front maybe we can tailor our presentation and shorten
9 the time it will take to present the matter to the Board.
10 MR. CHAIRMAN: I would ask for a summation of objections at
11 this time.
12 MR. SWARTZ: If you look at the application the primary
13 problem that we have -- if you look at the application
14 there's a plat attached. The application seeks to pool
15 an 80 acre Oakwood unit. This well bore is directly over
16 a mined out longwall panel in the Beatrice mine. As the
17 Board, I'm sure, recalls neither of the Oakwood orders
18 apply to sealed gob. Oakwood Field Rules I is essential-
19 ly a set of field rules with 80 acre units for frack
20 wells. Wells that are drilled into this virgin coal or
21 adjacent to virgin coal and many of them were fracked.
22 Oakwood II applies to short hole active gob. Active gob
23 has generally been defined as gob gas produced above
24 longwall mining in a mine that's not sealed and that's
25 operating. The status of the Beatrice mine at this point

1 is it has six shafts. Three of them have been sealed.
2 Plans are being developed and negotiated with the
3 regulatory people to seal the other three. So it's
4 partially sealed at this point. There's no active mining
5 in it. Our primary problem is we view this as a gob well
6 and even if it was active gob the rights of the people in
7 the entire panel that this well is over need to be
8 addressed. We can see that a sealed gob situation is
9 coming since half the shafts have been sealed. In that
10 event you have to take another look at what -- appropriate
11 drainage. That's our primary problem. Also there's
12 some difficulties with the application. If you look at
13 it it is some what inconsistent -- and hopefully Tom can
14 straighten this out -- at times in the application the
15 applicant represents they have 100 percent ownership in
16 this 80 acre unit and then other times in the application
17 they acknowledge that there are claimants such as my
18 clients and Mr. Pruitt's clients. In addition, when you
19 look at the exhibits to the application there are no
20 percentages or divisions of interests set forth for most
21 of the people who have been joined as potential claim-
22 ants. So there is no way to calculate what people's
23 division of interests are, what participation costs might
24 be. That's another problem with the application. In
25 addition with regard to well costs -- and I'm not sure

1 how important this is -- there are exhibits, well
2 estimates from other applications attached to the
3 exhibit. I think they're a collection of Buchanan
4 Production Company estimates, well estimates and there
5 may be some Consol and PGP estimates. You need to be
6 careful with those estimates because if my recollection
7 is correct all of them deal with frack wells. So there
8 are huge numbers associated with fracturing in the order
9 of magnitude of \$75,000/\$80,000. So to the extent these
10 well estimates are relevant for comparison purposes I'm
11 not sure that they are, but to the extent that they're
12 relevant or you consider them you need to be very careful
13 to back out frack costs. In addition there is a safety
14 concern that we have. As you will learn, this well was
15 drilled back in 1970 as a degas well to be vented. There
16 was litigation involving this well and at least by 1971
17 Island Creek had essentially walked away from the hole.
18 Mr. Ratliff had taken possession of it back as far as
19 1971. That litigation ultimately settled and it was --
20 we've gone back and reviewed the files and so forth and
21 it is pretty clear that the settlement contemplated that
22 Mr. Ratliff would have control and possession of the well
23 bore and Island Creek had disclaimed any interest in it.
24 But no written document has ever prepared. No written
25 agreement. Certainly what happened -- we have tendered a

1 written agreement whereby Island Creek would disclaim any
2 interest at all in this well bore and Mr. Ratliff and/or
3 his company would assume responsibility for it retro-
4 actively. As yet we don't have a signed agreement, but
5 that's something that probably needs to occur from a
6 regulatory standpoint. So the issues to summarize are we
7 believe this is a gob well. An 80 acre unit is not
8 appropriate. This mine is in the process of being
9 sealed. There are some ownership issues that the
10 application I do not believe addresses and the cost
11 issues may not be appropriately addressed in the applica-
12 tion either. Last thing is a safety issue which really
13 doesn't involve you all, but to the extent that you were
14 to approve this application the last thing that I would
15 suggest is as follows: when Mr. Fulmer's office issued a
16 permit with regard to this well it was contingent upon
17 Mr. Ratliff and his company coming to you and pooling
18 this unit appropriately. At that time the Beatrice Mine
19 was not in the process of being sealed and safety issues
20 relating to a pressure change in the mine were not really
21 on the table in front of Mr. Fulmer. In the event you
22 were to approve this application and development would go
23 forward I would request that it be sent back to Mr.
24 Fulmer with an indication to him to revisit safety issues
25 associated with the sealing of this mine. Really what

1 I'm talking about is the virgin coal pressure, you know,
2 roughly in the order of 600 PSI. Once we seal the mine
3 we would anticipate that the pressure that this well
4 experiences would increase over some period of time. I'm
5 not telling you it would 600 pounds, but I think it's
6 reasonable to assume that it's going to increase over a
7 period of time and that Mr. Fulmer should be asked to
8 look at whether or not there are any safety issues that
9 need to be addressed in that permit, to anticipate in a
10 safe way the potential increase in pressure. That in a
11 nut shell is what my clients are concerned about on this
12 application.

13 MR. PRUITT: Mr. Chairman, I would add one additional concern
14 to that list. The property is identified on the plat on
15 the unit map -- the property of my client as Big Axe
16 Tract 5. And that is not the identification we give to
17 the plat. Big Axe Tract 5 is about six miles away from
18 this location. This may be a typo. I'm just not sure,
19 but Big Axe Tract 56 is the correct notation. I'm not
20 aware of the survey information that was used. If they
21 used the Big Axe Tract 5 description then that will not
22 be correct and your plat will be in error. I would echo
23 on behalf of the trust one concern with regard to the
24 field. It is not necessarily beneficial to Mr. Wyatt to
25 argue to you today that the 80 acre field is not approp-

1 riate because in all likelihood he would recover more
2 royalty if you did incorporate that field. But it's not
3 really the right thing to do. We believe there are
4 other land owners out there who are affected by this well
5 because of the panel and because of the fact that their
6 land is being drained. And you have appropriate rules on
7 the proper applications before you to take those people
8 in account. That is important to the trust. The trust
9 owns approximately 17,500 acres and we're firm believers
10 that if we do the right thing uniformly throughout this
11 area then everyone will benefit. In so we encourage you
12 to consider the fact that this is a gob well. Thank you.

13 MR. MULLINS: If I could just respond. First I do have some
14 other opening remarks, but let me hone in first on the
15 objections that have been raised.

16 MR. CHAIRMAN: Okay.

17 MR. MULLINS: First, it is my position that the Oakwood I and
18 the Oakwood II Field unit rules orders are applicable to
19 this well. As the Board has filed responses and as the
20 Board is aware there is a certain court suit that has
21 been instituted by Ratliff Gas Company concerning this
22 matter. The Board's own answer to that law suit stated
23 that the Oakwood I Field Rules and the Oakwood II Field
24 Rules governed this well. So I think insofar as the
25 Attorney General's position is that would be our posi-

tion, that the Oakwood I and the Oakwood II Field Rules apply to this. As far as the ownership concern raised about the 100 percent ownership it is Ratliff Gas Company's position that is it 100 percent owner of the gas being drained. And it's always been there position that pursuant to the Board's rules we have to list other people who are potential claimants and that's what we've done. But it is our position and it's consistent in both the circuit court suit and in the application before the Board of our 100 percent claim to the gas but we've also listed other claimants are required by the Board. As far as safety concerns Mr. Ratliff has been running this well since 1971 which is longer than any of the companies represented here today have operated a well in Buchanan County to my knowledge without any safety problem, without any incident, without any complaint. So I don't think safety, although it sounds good in argument, his track record is extremely good. As far as doing the right thing insofar as the land owners that would be affected we have affidavits here from nineteen of the different land owners that are being affected and are listed in the application as claimants requesting the very action and the very relief Ratliff Gas Company is asking for today. This is the original and here are copies for the Board members. These are all the people

1 that live in the area around where this unit it and are
2 asking for the very relief that Ratliff Gas Company is
3 proposing. (Pause.) I have one more that I omitted.
4 Just to go back to my other opening remarks, pursuant to
5 the Board's own procedural rules number 5 in 1990, there
6 is a presumption of validity that goes with the applica-
7 tion as filed. It is up to any objectors to prove by
8 preponderance of the evidence that the applicant is
9 invalid for whatever reason and that includes expert
10 testimony or whatever other type of testimony that would
11 be required to rebut the presumption that goes with the
12 application. The application that is pending is pending
13 pursuant to the Inspector's, the Board's and the Circuit
14 Court's order that Ratliff Gas Company do this. We're
15 not, of course, waiving any of our constitutional or
16 other rights that we may in the Circuit Court case that
17 we have and I know the Board doesn't have jurisdiction
18 over some of those issues, but we want to make it clear
19 that we're not going to waive any of those issues here
20 today.

21 MS. RIGGS: I have a clarification that I would like to ask
22 about. When the permit was issued subject to the
23 condition that you form the proper drilling unit you
24 filed an appeal to this Board of that decision. When
25 that came on for hearing before this Board it is my

1 recollection that you all came in here and announced a
2 settlement and that you would, in fact, comply with those
3 conditions provided you were given 365 days to do so and
4 that an order issued by the Board issued to that effect.
5 I think what I now hear you saying is you've unsettled
6 that issue because the way it was left with the Board was
7 that you were not pursuing your appeal of the permit but
8 that you had settled the issue subject to being given 365
9 days to file this application.

10 MR. MULLINS: My recollection -- any maybe I'm in error and I
11 don't have the order in front of me. My recollection is
12 that the Circuit Court ordered us to exhaust all of our
13 administrative remedies which included coming before this
14 Board pursuant to the permit's order for forming a unit.
15 That's my recollection of the Circuit Court's order.
16 What we came in here and asked for was that we would not
17 appeal the permit application, but that doesn't mean we
18 are waiving any of the positions. It's still our
19 position the Act doesn't apply to us.

20 MS. RIGGS: Nor did you appeal the prior Board order in this
21 case?

22 MR. MULLINS: It was my understanding of the Circuit Court
23 ruling that we have to exhaust all of our administrative
24 remedies and that's something that will be addressed before
25 the Circuit Court. I don't know that that's --

1 MS. RIGGS: I just want to get the sequence correct because
2 the Circuit Court order, then you did come back and you
3 pursued the appeal of the permit up to this Board and the
4 Board issued an order and that order has never been
5 appealed as far as I know.

6 MR. MULLINS: We haven't appealed that order, if that's your
7 question.

8 MS. RIGGS: So the last action by the Board which was not
9 appealed administratively is the order of the Board
10 issued on May 31st, 1984?

11 MR. MULLINS: I don't have the order. I can't tell you if
12 that -- I'm sure it is.

13 MR. CHAIRMAN: I'll certify that that is correct. The date is
14 May 31st, 1984. I have the order here if you'd like to
15 see it.

16 MR. MULLINS: No. I don't need to look at it.

17 MS. RIGGS: I think it might be important for the Board to
18 review their prior order which is the last action they
19 took with regard to this application so that they know
20 their starting point, is my point here.

21 MR. CHAIRMAN: Let's take a ten minute break and let me pass
22 this out to the Board members to read.

23 MR. MULLINS: Can I go ahead and finish my opening statement?

24 MR. CHAIRMAN: Sure.

25 MR. MULLINS: That way it will save them from having to review

1 a lot of stuff.

2 MR. CHAIRMAN: That's fine.

3 MR. MULLINS: It's our position -- and I understand the
4 Board's prior order. We're not trying to argue or assume
5 any rights we don't have. It's our position that the
6 Virginia Gas & Oil Act does not apply to Ratliff Gas
7 Company and that's the position we've taken before the
8 Circuit Court. That's separate and apart from this
9 application. We're doing that pursuant to the Board's
10 orders. We're doing that pursuant to the Inspector's
11 prior order in the permit and we're doing it pursuant to
12 the Circuit Court's ruling that says we have to exhaust
13 our administrative remedies. That's why we're here
14 today. It's also our position, as I stated earlier, that
15 the application as framed is proper as far as unit U-19
16 and the 80 acre unit pursuant to the prior orders of the
17 Board and pursuant to the response filed on behalf of the
18 Board in that very same Circuit Court suit. The way I
19 look at this application is like any force pooling
20 application. It's a little different since you're
21 dealing with a 20 year old well that's been in production
22 or usage for 20 years. So there are some due process
23 concerns that again the Board does not have jurisdiction
24 to address. But insofar as the force pooling proceeding
25 itself I view this just as any other force pooling

1 provision or application before the Board. I don't
2 believe I have any other statements at this time.

3 MR. CHAIRMAN: We'll take a ten minute break.

4 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)

5 MR. CHAIRMAN: I'll recall the meeting back to order. The
6 record will reflect that I've distributed copies of the
7 prior Board order to the counsel involved and to all the
8 Board members. You may proceed.

9 MR. MULLINS: First, if there's going to be any witnesses that
10 are going to testify, Mr. Chairman, I ask that they leave
11 the room pursuant to the Rule.

12 MR. PRUITT: Mr. Wyatt, of course, is a claimant. Would he
13 have the capacity to remain here as a claimant?

14 MS. RIGGS: As a representative?

15 MR. PRUITT: Yes.

16 MS. RIGGS: He would.

17 MR. CHAIRMAN: Any other witnesses?

18 MR. SWARTZ: I'd ask that Claude Morgan to be allowed to
19 remain as a representative of Buchanan Production.
20 We've also got Randy Albert who I suppose if you want to
21 sequester witnesses then Randy ought to take a hike for
22 a little while.

23 (Thereupon, Tom Mullins, Counsel for the applicant,
24 requested that the Rule be applied and all witnesses were
25 excluded from the room.)

1 MR. CHAIRMAN: All right. You may proceed.

2 MR. MULLINS: Our first witness will be Mr. Wyatt Ratliff.

3 COURT REPORTER: (Swears witness.)

4

5 WYATT RATLIFF

6 a witness who, after having been duly sworn, was examined and
7 testified as follows:

8

9 DIRECT EXAMINATION

10

11 BY MR. MULLINS:

12 Q. Sir, would you state your name?

13 A. Wyatt Ratliff.

14 Q. Where do you live?

15 A. Oakwood, Virginia.

16 Q. What do you do for a living?

17 A. I manage real estate property and rental income.

18 Q. Are you the president and chief executive officer of
19 Ratliff Gas Company?

20 A. Yes.

21 Q. Have you either through Ratliff Gas Company or personally
22 had possession used and produced the well that is not
23 designated as being within the unit U-19?

24 A. Yes.

25 Q. For how long a period of time?

1 A. Since approximately 1970/1971.

2 Q. Are you familiar with the application that's been filed

3 by Ratliff Gas Company for the drilling unit designated

4 as Ratliff well number one and unit U-19?

5 A. Yes, I am.

6 Q. Are you asking that the Board force pool the interests in

7 unit U-19 identified on the plat filed as part of the

8 application?

9 A. Yes.

10 Q. Now, there was one of the statements made in the earlier

11 part of this proceeding indicating there might be an

12 error on the plat identifying the tract as Big Axe Tract

13 5 rather than Big Axe Tract 56. Do you wish to amend

14 that plat?

15 A. Yes. That is Tract 56. It's a typographical error.

16 Q. A typographical error?

17 A. Right.

18 Q. Have notices been sent to the interested parties by

19 certified mail, return receipt requested?

20 A. Yes.

21 Q. Have copies of those receipts been filed with the Board?

22 A. Yes.

23 Q. What is the size of this unit?

24 A. 79.98 acres.

25 Q. What are Ratliff Gas Company's interest in the well?

1 A. Owns and claims 100 percent of the gas.

2 Q. You've, of course, in the application listed other

3 potential claimants pursuant to the rules of the Board

4 and the statute and other regulations, is that correct?

5 A. Yes.

6 Q. Do you wish to dismiss Carson Brown and his wife as

7 having been leased by Ratliff Gas Company?

8 A. No.

9 Q. You have leased Carson Brown, haven't you?

10 A. Yes. Yes.

11 Q. So you want to dismiss him. He would be the only party

12 that you would want to dismiss, is that correct?

13 A. That's correct. I'm sorry.

14 Q. We've also today filed affidavits before the Board

15 indicating the interest of the overwhelming majority of

16 the other claimants listed, asking that this application

17 be approved, isn't that correct?

18 A. That's correct.

19 Q. Is the gas well designated as a coalbed methane well?

20 A. Yes.

21 Q. What formations are you asking the Board to force pool

22 here today?

23 A. From the Tiller Seam down to the Red Shell.

24 Q. What is the depth of this well?

25 A. 1,076 feet.

1 Q. Are there two or more separately owned tracts that are
2 embraced within the drilling unit?
3 A. Yes.
4 Q. As an exhibit to the application is there a list naming
5 the parties which Ratliff Gas Company is asking the Board
6 to force pool here today?
7 A. Yes.
8 Q. Was due diligence used to locate these parties?
9 A. Yes.
10 Q. Whose interest in drilling rights are being sought to be
11 force pooled here today?
12 A. Those listed in Exhibit D to the application.
13 Q. Is Ratliff Gas Company requesting to be named the
14 drilling operator in unit U-19 and for Ratliff well
15 number one?
16 A. Yes.
17 Q. Was a sample AFE prepared and filed?
18 A. Yes.
19 Q. I'm going to ask you some other questions. Is that a
20 copulation of other AFEs that have been prepared and
21 submitted to the Board as representations of costs of
22 drilling other wells of that nature?
23 A. Yes.
24 Q. Of course, in this well you wouldn't be asking for
25 fracturing costs, would you?

1 A. No.

2 Q. Does any amount need to be escrowed by the Board?

3 A. Yes. One-eighth of 100 percent.

4 Q. So, in other words, since there's a contest of all the

5 potential royalty owners you're asking all the royalty

6 interests be escrowed?

7 A. Yes.

8 Q. What is the estimated production over the life of the

9 well?

10 A. 337.5 million cubic feet.

11 Q. Does Ratliff Gas Company have a bond as required by

12 statute to cover plugging and reclamation costs?

13 A. Yes.

14 Q. In your history of running this -- operating this gas

15 well since 1971 have you ever had any safety incident

16 that would question the safety of this well?

17 A. Not the first one. I've had a perfect safety record.

18 Q. Is it your position that own the well?

19 A. Yes.

20 MR. MULLINS: I don't believe I have any other questions of

21 Mr. Ratliff.

22 MR. CHAIRMAN: Questions, members of the Board?

23 MR. HARRIS: His statement that a DWE was presently sampled.

24 Is there one that's been designated as a sample? I see

25 three.

1 MR. MULLINS: I think we just used them as a copulation, not
2 any one as -- this well is 20 years old, I guess, is the
3 best way to put it. And what we were trying to do was
4 be as -- we didn't want to pick one or the other, pick a
5 high one or a low one, a high ball or a low ball cost to
6 the well. Since Mr. Ratliff owns the well it's our
7 position that that cost -- and that's in 1971 dollars and
8 I'm not even sure we can reconstruct that to be quite
9 honest with you because it involved litigation and
10 several other issues. But what we tried to do was get a
11 sampling of different AFEs and different well costs to
12 use to give the Board an idea and really to ask for the
13 advice of the Board as to which figure that would be the
14 best figure or even average figures. We have no objec-
15 tion to that.

16 MR. HARRIS: I guess my concern was -- I don't have the law in
17 front of me but I just wondered if when you have the well
18 estimate if it needs to be specific to this well even if
19 it is an estimate. I don't know if an average would have
20 been appropriate. I guess maybe I'm asking the Board, is
21 there one needs to say this particular well rather than
22 three different? I don't know.

23 MR. MULLINS: And that's one of the problems we have with this
24 well -- I mean, really with this proceeding because we do
25 have a 20 year old well.

1 MR. HARRIS: I understand.

2 MR. MULLINS: I understand your point, too.

3 MR. CHAIRMAN: That obviously is an issue if people were to
4 make the election and decide whether or not to partici-
5 pate and share in the costs.

6 MR. GARVIS: I'd like to ask some questions on the origin of
7 your ownership. Could you give me some detail on exactly
8 how -- I know we've already had some previous testimony,
9 but how exactly did you come to be the owner of the well?

10 MR. RATLIFF: I own the property that the well is sitting on
11 to start with. Back in the latter part of the last
12 century my grandfather owned this same property. He sold
13 to Howard and Tiller the coal on Tract 56 with the right
14 to remove the coal and that was the only right that he
15 let this company have. All other rights were deeded down
16 to his grandchildren, which I'm one of them, and the coal
17 company needed to put this degas hole in from what I can
18 understand because at that particular time the Beatrice
19 Mine was planning to go through under that property.
20 There was so much gas that it was shutting down the
21 automatic equipment from what I understand and they had
22 to put that well where it's at. I told them they had no
23 rights. They couldn't do it. Go down the road on some
24 more property that I had that was about 500 foot from
25 that. They said they couldn't do that. It had to go

1 exactly where it is at. And I said go ahead and do it
2 but if you find out that you don't have these rights --
3 he first told me that he did. He said, "We do have all
4 the rights." The question he asked me was, "Is this the
5 Paris H. Ratliff tract of land?" I said, "Yes, it is."
6 But the deed that he had in his hand of the Paris H.
7 Ratliff tract of land was one-half a mile away from where
8 this tract is at. He did have all the rights on it. But
9 this particular tract he had no rights and once they got
10 the well down I went to get a lawyer to help me and we
11 ordered them to stop because they had no rights at that
12 time. They turned the well back over to me and I agreed
13 with them to leave it open and let it bleed the gas out
14 so the mine could go ahead and produce coal from under
15 it. That was for a period of about two years, I think,
16 and then they came and settled with me as to what gas had
17 escaped out of the mine.

18 MR. GARVIS: What do you mean they settled with you as to what
19 gas had escaped?

20 MR. RATLIFF: We asked them for a figure for the amount of gas
21 that they had bled into the air and we estimated what it
22 might cost to produce that gas at that time and they paid
23 for it.

24 MR. GARVIS: How much money was that?

25 MR. RATLIFF: At that time it was about \$75,000.

1 MR. LEWIS: And they blew this out into the atmosphere?

2 MR. RATLIFF: Yes.

3 MR. MULLINS: Our office handled that litigation. Of course,
4 I wasn't around when that took place but I have reviewed
5 the file on that. It's pretty much as Mr. Ratliff has
6 set forth. It's my recollection of it that Island Creek
7 took the position that they had the right to drill a VVH
8 hole on the location that they chose. They did, in fact,
9 enter upon the property and drill a VVH hole. Mr.
10 Ratliff instituted a trespass suit and there were several
11 allegations in the law suit concerning the issue. The
12 litigation -- due to the health of the attorney handling
13 the matter which was Jim Street who had a lot of health
14 problems at the time -- and some of the Board members
15 probably remember Mr. Street -- it took several years to
16 resolve it due to those problems. But ultimately a
17 settlement was reached and Mr. Ratliff claimed and
18 continues to claim in that law suit and subsequent to the
19 law suit that he is the owner of the property and
20 anything and everything upon and underneath the property
21 except for the coal itself he has all rights to the hole
22 in the ground, has all rights to the gas and whatever gas
23 comes out of that. That was his position in the prior
24 law suit and that's how he came to have possession of the
25 well.

1 MR. GARVIS: At what point did he start capturing the gas and
2 then either selling it or using it? At what point did
3 that begin?

4 MR. RATLIFF: I never did sell the gas, but along about 1971
5 or 1972 I started going to different gas companies in the
6 area, Bluefield Gas Company, the Bristol Gas Company. I
7 asked them questions, talked to their employees, finding
8 out all the information I had to find out in order to
9 make this gas useful in homes because the information
10 that was spread in the community and the coal field was
11 it was a methane gas that was nothing but a nuisance gas
12 that could not be used for anything and couldn't be used.
13 I wanted to prove that they were wasting gas. I got self
14 training as to how to operate a well, how to control it,
15 how to use all the regulators to make it safe and as I
16 learned these things I started hooking up the gas to my
17 own personal property and my neighbors seen that it was
18 working and were so well pleased with it they ran the
19 lines from the end of my property to their's under my
20 supervision as to what kind of line they had to have to
21 make it safe, the type of regulators I required them to
22 put on their homes. I think one time I had about 80
23 homes in our community that I was serving gas to for a
24 period of almost 20 years.

25 MR. GARVIS: Did you collect any revenues from that?

1 MR. RATLIFF: I never collected the first penny. I gave it
2 all to them. I bear all the expense. I stayed awake
3 many a night when it was freezing weather to see that
4 their lines were kept open. And up until I think about a
5 year ago the State Corporation Commission said I was in
6 violation of the law because I was not a public utility.
7 They gave me 30 days to close it down and I complied with
8 that law.

9 MR. CHAIRMAN: Other questions, members of the Board? Mr.
10 Pruitt.

11
12 CROSS-EXAMINATION
13

14 BY MR. PRUITT:

15 Q. Mr. Wyatt, who were the parties to that law suit?

16 A. Island Creek. You're talking about the one back in 1970?

17 Q. Yes.

18 A. Yes.

19 MR. MULLINS: I'd just like to make an objection. I don't see
20 how that's relevant to the force pooling application here
21 today. I don't think that that's bearing on the applica-
22 tion before us as who was the party to the prior law
23 suit.

24 MR. PRUITT: The significance of the question was to illus-
25 trate to the Board that we had not settled our claim as

1 to the ownership, that we were still a claimant. In that
2 sense I think it is relevant.

3 MR. CHAIRMAN: Objection overruled.

4 MR. MULLINS: That is not part of our application. We've
5 listed them as a claimant. We've also listed all the
6 parties who are claimants. So I don't think that it's
7 relevant. I understand the Board's ruling. I just want
8 to get my position in the record. I don't think it's
9 relevant. We've not taken the position that they had
10 settled out. We've listed them as a claimant as we have
11 other people and I don't see the question as advancing
12 the application.

13 MR. PRUITT: May I proceed?

14 MR. CHAIRMAN: Yes.

15 Q. (Mr. Pruitt continues.) Mr. Ratliff, you have advised
16 the Board that it's a typographical error on your
17 notation on the plat, Big Axe Tract 5. I note in the
18 application that the additional listing of the tracts
19 also listed as Tract 5. So Tract 5 has made it's way
20 into several different notations within this application.
21 Can you say for certain that the deed used to determine
22 the property lines was the deed for Big Axe Tract 56 and
23 not the deed for Big Axe 5?

24 A. Let me look at this one more time to be positive.

25 (Pause.) Yes.

1 Q. Can you say for certain that -- do you know whether the
2 surveyors used the Tract 5 deed or Tract 56 deed?
3 A. The land where the well is is Tract 56.
4 Q. If you don't know for certain the surveyors used that's
5 all I need to know.
6 A. Down here in this corner, possible it could be another
7 tract and that's what it looks like in this area. The
8 majority of all this is Tract 56.
9 Q. Are you certain that the surveyors used the deed for
10 Tract 56, I guess, is my question? If you don't know
11 please just say so?
12 A. I'm not sure.
13 Q. The affidavit which you have obtained and have presented
14 to the Board, those are all people living within the area
15 of your designated U-19, are they not?
16 A. Yes, they are.
17 Q. Do you have any affidavits from people who live outside
18 the area of that designated unit but do live above the
19 mine panel?
20 A. I only got the main --
21 MR. MULLINS: Objection. I'll state the reason for my
22 objection. We're only here on the unit U-19 and he's
23 asking for an area outside the unit U-19. There would be
24 no cause for Mr. Ratliff to go out and get an affidavit
25 from somebody not within the unit. That's the position

1 we've taken.

2 MR. PRUITT: Mr. Chairman, may I just briefly respond to that?

3 MR. CHAIRMAN: Sure.

4 MR. PRUITT: The affidavits as I recall were tendered in

5 response to my opening remark that we consider this to be

6 a job well and we felt the correct thing to do for those

7 other land owners was to make them a part of this

8 proceeding. I'm just continuing along that line of

9 questioning.

10 MR. CHAIRMAN: I'm going to go ahead and overrule the objec-

11 tion. You've already clarified for the record. Because

12 of the nature of the claim and because of the nature of

13 the objection I'm going to leave some latitude here for

14 those kinds of discussions. I think the Board can sort

15 out the relevancy later.

16 Q. (Mr. Pruitt continues.) Mr. Ratliff, I don't recall if

17 you answered that question or not. If you did that's

18 fine, but the affidavits that were submitted, are any of

19 those people located over the mine panel but outside the

20 bounds of U-19?

21 A. Some of them have property that extends outside the

22 bounds of unit U-19.

23 MR. LEWIS: Your property does?

24 MR. RATLIFF: Some of my property does, too. U-18.

25 Q. (Mr. Pruitt continues.) Are there other property owners

1 that are located over the mine panel that are not
2 represented here in this application?

3 MR. MULLINS: I don't want to prolong this. We're talking
4 about a mine panel. We don't have any parameters as to
5 the area we're talking about. So unless we can get some
6 parameters to the area I don't think that question can be
7 answered because we're dealing with an unknown area.

8 MR. CHAIRMAN: So you're objecting?

9 MR. MULLINS: I'm objecting.

10 MR. CHAIRMAN: Sustained.

11 MR. PRUITT: I don't think I have any other questions.

12 MR. CHAIRMAN: Mr. Swartz.

13
14 CROSS-EXAMINATION

15
16 BY MR. SWARTZ:

17 Q. Mr. Ratliff, your application seeks to pool all the seams
18 from the Tiller on down to the Red Shells, is that what
19 you've told us?

20 A. That's what I've asked for.

21 Q. The Red Shells in your understanding, would that be
22 below the Pocahontas #3 seam?

23 A. Yes, it would.

24 Q. I think you indicated in answering some of your own
25 attorney's questions that it's your understanding that

1 this hole was drilled originally as a vertical ventila-
2 tion hole, is that correct?

3 A. Yes, it was.

4 Q. And you apparently had some communication with -- let me
5 back up a little bit. The law suit actually named
6 Beatrice rather than Island Creek?

7 A. I think it did.

8 Q. Did you have some communication back in the early
9 seventies when this well was proposed to be drilled with
10 people from the Beatrice Mine?

11 A. Yes, I did.

12 Q. I think you've indicated that they were -- it was your
13 understanding that this vertical ventilation hole was
14 drilled to assist them in degassing part of the Beatrice
15 Mine?

16 A. It was.

17 Q. And ultimately this hole was drilled apparently over some
18 objections you had tendered?

19 A. Yes.

20 Q. Is it your understanding from talking to the Beatrice
21 people in the early 1970s or seeing mine maps since then
22 that this hole -- this well that we're talking about
23 today is, in fact, over a part of the Beatrice Mine?

24 A. It is over part of the Beatrice Mine.

25 Q. I'd like to show you a portion of a map of the Beatrice

1 Mine. Have you seen this map or part of it before, Mr.
2 Ratliff?
3 A. I haven't saw this one before. I don't think so.
4 Q. Does it look familiar, though?
5 A. I see the number two degas hole. Yes. That's approx-
6 imately where it would be or where I think it should be.
7 Q. So although you may have not seen exactly this map you've
8 seen other maps and this looks like a portion of maps
9 you've seen before?
10 A. Yes.
11 Q. Just to describe for the Board where we're talking about,
12 if they count two panels up from the bottom of the map in
13 the second panel there is a number two hole indicated,
14 correct?
15 A. Right.
16 Q. Would that be the well that is the subject -- the VVH
17 that's the subject of your application?
18 A. It is.
19 Q. And that's right over -- well, it's almost in the center
20 of a portion of the second longwall panel from the bottom
21 of the exhibit that I've shown you?
22 A. Yes.
23 Q. Is it your understanding that this -- you've told me that
24 you understood that this hole was drilled to degas or to
25 assist in degassing the Beatrice Mine. Is it your

1 understanding that some of the gas that comes out of this
2 hole does, in fact, come right out of the Beatrice Mine?

3 A. I think it does, yes.

4 Q. Does the 80 acre unit -- this U-19 unit that we're
5 talking about today, that does not include all of that
6 longwall panel, does it, the second one up from the
7 bottom?

8 A. I don't think it does. I think the unit would extend on
9 beyond that 80 acre unit both to the left and to the
10 right. I'm not sure. I just don't know.

11 MR. MULLINS: I'd like to make an objection for the record. I
12 understand the Board's prior ruling. It's our position
13 that the application is made pursuant to the Board's
14 field rules. If Mr. Swartz is going to establish that
15 the field rules don't apply then that's fine. But I
16 think that the application as it's stated makes this line
17 of questioning irrelevant.

18 MR. CHAIRMAN: I would agree with that, but I'm going to
19 overrule the objection in light of what I said earlier to
20 allow the other testimony to continue.

21 MR. SWARTZ: Well, I guess maybe to just go right for it. I
22 mean, I'll ask the question of Mr. Mullins. Your client
23 has just testified and I think it's testimony certainly
24 consistent with what he was telling you when you asked
25 him on direct that this well is producing from the gob.

1 I mean, it's in communication with the Beatrice Mine. Is
2 it your contention that Oakwood I and Oakwood II -- that
3 Oakwood I applies to gob wells? If it is your contention
4 that it doesn't is it your contention that Oakwood II
5 applies to this well as a gob well and if so could you
6 tell us what plans you have to pool other units in this
7 mine, certainly units that would include this panel? I
8 mean, if we get there maybe we're done.

9 MR. MULLINS: That, I think, was addressed to me. So I'll
10 make a response on behalf of Ratliff Gas Company. First,
11 it's our position which I understand is the position that
12 the Board has taken in the civil suit that the Oakwood I
13 and Oakwood II rules do apply if the Act applies. We're
14 not saying that the Act applies, but if it does and in
15 the alternative -- I guess to cover all my basis for the
16 Circuit Court case, if it does then the Oakwood I and
17 Oakwood II rules apply. I don't think they do apply to
18 this well. As far as pooling other units, that's not
19 relevant to this application. I don't think it matters
20 one way or the other whether Ratliff Gas Company plans on
21 going forward any more, whether this is it's one pay day
22 and everybody goes home after this. I don't see how
23 that's relevant. I don't see how any response needs to
24 be made to that. But it is our position that these
25 fields rules apply. I think the various orders --

1 there's. I think, five orders or four orders. I can't
2 remember off the top of my head -- that address it and
3 specifically do say and I disagree with the statement
4 earlier. I think the order said that they apply in
5 advance, during and after. I think the orders say that.
6 I believe they do. I don't have it at my fingertips,
7 but that's my understanding of what the three Board
8 orders say -- five orders. Excuse me.

9 MS. RIGGS: It says in conjunction with the Oakwood I order
10 that the Board has established a uniform method of
11 development in the Oakwood Methane Gas Field for various
12 methods and phases of production, both before, during and
13 after longwall mining of the coal seams located therein.
14 Then they proceed to adopt the method under Oakwood II
15 for active gob and short hole and increased density
16 wells. But it is my understanding that neither Oakwood I
17 or Oakwood II apply to sealed gob units and, in fact,
18 they specifically exclude sealed gob units.

19 MR. MULLINS: In the findings and the orders of the Board or
20 only in the recitation of the Board order. And that's
21 inconsistent with the position that the Board has taken
22 in the Circuit Court.

23 MS. RIGGS: It's my understanding that based on the evidence
24 presented by the Board to this point -- and I still don't
25 know that any evidence has been presented with reference

1 to sealed areas of Beatrice Mine. As far as this Board
2 has received evidence to date there has been no applica-
3 tion for a sealed gob unit. Therefore -- I don't know
4 whether the mine has been sealed yet. We still haven't
5 gotten to that point in the evidence. So I don't know
6 that this Board is yet to a point that it can determine
7 at what phase of mining we're at with regard to this
8 well. Based on what we know, though, we know we have
9 fields rules for in advance of mining, we know we have
10 fields rules for short hole, active gob and increased
11 density wells and we know in the past the way that sealed
12 gobs have been handled has been by creation of the sealed
13 gob unit to conform with the sealed area of the mine.
14 That's what we know. Now, as this evidence comes forward
15 our position may change based on what you're willing to
16 tell us today. I don't know.

17 MR. CHAIRMAN: But we're treating this, absent information
18 otherwise, as an active gob well.

19 MR. SWARTZ: I think you need to because if I call any
20 witnesses they're going to testify that three of the
21 seals are in place and three aren't. So it's not a
22 completely sealed mine and that's not coming. Ultimately
23 it will be a sealed mine and I think we're going to have
24 a case on the docket later here today where we kind of
25 address some of the same issues. When the other three

1 shafts are sealed which is presumably going to happen in
2 the foreseeable future if you enter an active gob order
3 today there's going to have to be a come back at some
4 point. But my position today is consistent with Sandy's
5 summary. And I think we need to treat this -- I know
6 that Mr. Mullins doesn't agree with me, but my view is we
7 need to treat this as if we're dealing with one or more
8 longwall panels that we need to look at as if they were
9 active gob subject to Oakwood II. I think that's in the
10 record at least at this point. And you're not going to
11 hear from me that this mine is sealed at least today and
12 get us into some other position. My point with regard to
13 that is -- I realize I asked Mr. Ratliff to kind of
14 superimpose this 80 acre onto this panel. It's pretty
15 obvious, though, knowing the dimensions of the panel --
16 the map you've got is a scale of an inch to 1,000 -- that
17 portions of that panel that contain the number two hole
18 are clearly outside of this 80 acre unit. The Oakwood II
19 order contemplates an allocation of production and the
20 people who are in this 80 acre unit are only going to be
21 entitled to some portion of the production under Oakwood
22 II which is a result of ratio created by dividing the
23 acreage within U-19 over the total acreage in the panel.
24 That gives you a percentage. And whatever comes out of
25 this well bore, that percentage times whatever comes out

1 of this well bore is allocated to these people. But
2 there are at least one or two other 80 acre units that
3 need to be dealt with for the balance of the production.
4 The point here is -- and my clients -- from the beginning
5 in the litigation and all this other stuff it is not our
6 position that Mr. Ratliff should not be allowed to
7 operate this well. It's not our position that the permit
8 shouldn't be granted. It just needs to be done right
9 and the unit needs to be the right size. Our view today
10 is this is an Oakwood II unit. It's an active gob or a
11 hybrid that would fall within the active gob parameters
12 and it needs to be dealt with accordingly. What you're
13 hearing essentially in the application is all you need to
14 concern yourself with is this 80 acre unit and these
15 people are going to get 100 percent of the production.
16 Well, that's not the scenario that your rules contem-
17 plate.

18 Q. (Mr. Swartz continues.) Mr. Ratliff, do you intend to
19 pool any other units, units to the east and west, for
20 example, of U-19 and allocate production from this
21 Ratliff number one well to those units?

22 A. It's my intention to pool unit U-18 or from the segments
23 that you've made, if I have to pool other units surround-
24 ing this area then I will do so. It's how the Board
25 feels, if they require it.

1 Q. Would it be your understanding or your intention to only
2 allocate to this unit, meaning U-19, a percentage of the
3 production coming out of this well bore and then to
4 allocate the balance of the production to adjoining
5 units?
6 A. Those things will have to be determined. That's not
7 already determined.
8 Q. But it's something apparently you have thought about?
9 A. Uh --
10 MR. MULLINS: Mr. Ratliff may not be familiar with all the
11 terms of all the orders. So he may not be in a position
12 to answer the technical questions as to the application
13 or the orders. I guess is what he's trying to say.
14 MR. RATLIFF: Yes, that's true.
15 Q. (Mr. Swartz continues.) Is your claim to 100 percent
16 ownership essentially based on adverse possession?
17 MR. MULLINS: Objection. That's a matter of title and that's
18 not before the Board.
19 MR. CHAIRMAN: Restate your question. I'm sorry.
20 MR. SWARTZ: The question was is your claim to 100 percent
21 ownership based on adverse possession or is it based on
22 deeds.
23 MR. MULLINS: And our response was that's a matter of title
24 which the Board doesn't have jurisdiction. It's really a
25 discovery matter for a separate suit going forward in the

1 Circuit Court.

2 MR. CHAIRMAN: Sustained.

3 Q. (Mr. Swartz continues.) Would you agree that your
4 application does not state a percentage of interest for
5 each tract and each claimant?

6 A. That's true. It doesn't.

7 Q. Would you agree that that needs to be done at some point
8 so that you can pay people or escrow money associated to
9 certain claims?

10 A. I really don't think it needs to be done.

11 Q. Why is that?

12 A. Because I'm claiming 100 percent ownership.

13 Q. What happens if you lose on your 100 percent claim?
14 Doesn't it need to be done at that point?

15 A. It would have to be done at that point probably.

16 Q. I suppose it would also have to be done if some of these
17 people in this unit wanted to participate and escrow some
18 of their money? Otherwise they wouldn't know what to
19 escrow?

20 A. I imagine so, yes.

21 MR. CHAIRMAN: Let me interject a question at this point. Was
22 there ever in any of the prior law suits or anything a
23 cost established for this well? Is there anything of
24 record that you're aware of that established the cost of
25 this well?

1 MR. RATLIFF: I have some of the old records. I could get the
2 answer to that and get back to you, but I've not saw that
3 figure anywhere.

4 MR. MULLINS: To my knowledge after reviewing the litigation
5 files that we had I never found any information in any of
6 the discovery that identified the cost because that was
7 not the issue. Mr. Ratliff wasn't concerned at that
8 point in time of how much it cost them to put the hole
9 in the ground. He was concerned otherwise that they had
10 violated. So I don't know that we have that information.

11 MR. SWARTZ: That's all I have of Mr. Ratliff.

12 MR. CHAIRMAN: Any questions, members of the Board? Do you
13 have any further witnesses?

14 MR. MULLINS: No, sir.

15 MR. CHAIRMAN: Do you have anything further?

16 MR. MULLINS: Not at this time.

17 (Witness stands aside.)

18 MR. CHAIRMAN: Mr. Pruitt, do you have any witnesses?

19 MR. PRUITT: Yes, Mr. Chairman. I'd like to call Mr. Landon
20 Wyatt.

21 COURT REPORTER: (Swears witness.)

22
23 LONDON WYATT

24 a witness who, after having been duly sworn, was examined and
25 testified as follows:

DIRECT EXAMINATION

BY MR. FRUITT:

Q. Sir, would you state your full name for the Board, please?

A. Landon Russell Wyatt, Jr.

Q. Mr. Wyatt, are you the same Landon R. Wyatt, Jr. listed as trustee in the application that's before the Board?

A. Correct.

Q. The application describes the trust as the Big Axe Coal Company Trust, I believe?

A. This application does. We are not a corporation. It's the Harrison & Wyatt Grantor Trust. There are 23 beneficiaries, children of the W.R. Harrison and Landon R. Wyatt, Sr., my generation and the next. I'm a trustee.

Q. How many trustees are there?

A. Two trustees.

Q. How long have you served as trustee for the trust?

A. Since 1971 when my father died.

Q. What is the corpus or the body of the trust?

A. Surface and mineral in Buchanan County. Approximately 17,500 acres.

Q. I think the evidence is already before the Board. This may be a little bit cumulative, but as to the tract

1 shown in the application, Big Axe Tract 5, is that the
2 correct tract for the location of this particular well?
3 A. Tract 56 is the correct number.
4 Q. Does the trust claim the coal underlying the tract on
5 which this well was drilled?
6 A. Yes, we do.
7 Q. And that claim, of course, is being litigated in the
8 Circuit Court of Buchanan County, Virginia?
9 A. Correct.
10 Q. Is there any other objection that the trust would have as
11 to this application as it has been set forth?
12 A. We feel that it should be applied for as a gob well and
13 the rules that would pertain to the operation of a gob
14 well.
15 Q. I've explained to the Board that that may not particular-
16 ly help the trust as far as collection of royalty at this
17 point in time. How can you as a trustee ask that it be
18 treated as a gob well even though that hurts you in this
19 particular well?
20 A. Well, as a beneficiary I could look at it one way but as
21 a trustee I obviously have an obligation to look at the
22 whole picture. In our area we probably have 100 of
23 these methane wells or more and we'd like for them to be
24 judged and operated properly, fairly. What we need to do
25 for one we would like to see done for all of them.

Whatever is our share, be it less or more, is not important on this one. We'd just like for it to be fair. And as a trustee I have an obligation to pursue that.

MR. PRUITT: That's all I have, Mr. Chairman.

MR. CHAIRMAN: Questions, members of the Board, of this witness? Thank you, Mr. Pruitt.

(Witness stands aside.)

MR. CHAIRMAN: Mr. Swartz.

MR. SWARTZ: I don't feel like I need to call any witnesses at this point. I'd like to make a couple of comments at the end or I'll make them now, whatever your pleasure is, and I'll be finished.

MR. CHAIRMAN: That's fine. Go ahead and make them now if you'd like.

MR. SWARTZ: My comment or my concluding remark is the gob well -- at this point it's probably reasonable to look at as an active gob well. I think on the horizon we're going to maybe be looking at it as a sealed gob well. If Oakwood II is applied to this well, meaning that there is a proposal on the table or an undertaking on the table to pool whatever units intersect this panel that this well is in and to allocate production from this well to the two or three units that intersect that so that we apply the Oakwood II rules to this well, my clients have no problem whatsoever. Approving this application and

1 other applications make the Oakwood II field rules apply.
2 And that needs to happen. This application assumes -- at
3 least on its face, assumes that all production is
4 allocable to this 80 acre unit U-19 and that is not what
5 needs to happen under Oakwood II. So to the extent that
6 the applicant is willing to come back and pool the number
7 of units that need to be pooled to address this, fine.
8 That is our only position. This just needs to be done
9 right.

10 MR. CHAIRMAN: Do you have any comments?

11 MR. PRUITT: Mr. Chairman, I think Mr. Wyatt has simply set
12 forth our position. If Mr. Wyatt Ratliff is successful
13 in proving that he has good title to this property by
14 whatever means that's another case, and more power to
15 him if he succeeds. He's entitled to use the gas in
16 certain manners. If he doesn't not, of course, we want
17 to be protected and the application -- it doesn't appear
18 -- I have certain questions as to whether the application
19 is correct as to the title lines. Certainly we think the
20 ownership of the potential claimants should be set forth
21 if Mr. Wyatt Ratliff succeeds, if he fails, our only
22 point is simply that the Board be consistent in apply
23 it's field rules. Our concern is that if the Board makes
24 a special case here and ignores the panel of the mine
25 then there are property owners out there or royalty

1 owners who are not before the Board that haven't received
2 notice, don't get due process and we may be in a position
3 the next time and we just encourage the Board to be
4 consistent and consider those things. Thank you.

5 MR. CHAIRMAN: Thank you. Mr. Mullins.

6 MR. MULLINS: I'll try to be short. It's our position that he
7 only evidence that's before you today supports the
8 application pursuant to the Board's own procedural rules
9 the presumption of validity goes with the application.
10 There's been no evidence presented in conflict of the
11 application and that's our position. As far as the
12 concern over title lines, there's no evidence that those
13 title lines are in error. I mean, we can stand up and
14 argue this or argue that, but we're looking to the
15 evidence. The evidence is in the application. There's a
16 presumption of validity that goes with that application
17 pursuant to the Board's own ruling. I think the applica-
18 tion speaks for itself. We've had the required testimony
19 to support the application. It would be our position to
20 ask the Board at this time to rule in favor of the
21 application.

22 MR. CHAIRMAN: Anything further, members of the Board?
23 Questions or comments?

24 MR. EVANS: Mr. Chairman, I move that this meeting be recessed
25 and that the Board immediately reconvene in Executive

1 Closed Meeting for the purpose of consultation with legal
2 counsel and by briefings by staff members and attorneys
3 pertaining to actual and/or potential litigation and
4 other legal matters within the jurisdiction of the Board
5 as permitted by Section A. Paragraph 7 of Section 2.1-348
6 of the Code of Virginia. This motion is made with
7 respect to the matters identified as agenda Item VGOB-
8 94/10/24-0475.

9 MR. LEWIS: I will second that motion.

10 MR. CHAIRMAN: A motion and a second. Further discussion?
11 All in favor signify by saying yes. (ALL AFFIRM.)
12 Opposed say no. (NONE.) It's a unanimous approval.
13 We're in Executive Session.

14 (Thereupon, the Board went into Executive Session at
15 11:00 A.M. and returned to open public hearing at 11:40 A.M.)

16 MR. CHAIRMAN: I'd call the meeting back to order, please. I
17 ask the Board members do you affirm that during the
18 Executive Session you discussed only public business
19 matters lawfully exempt from the statutory requirements
20 for open meetings and do you further affirm that during
21 the Executive Session you discussed only business matters
22 identified in the motion to convene the Executive
23 Session? (ALL AFFIRM.) Thank you. Do I have a motion
24 in this case?

25 MR. EVANS: Mr. Chairman, I move that this matter be continued

1 to afford the applicant an opportunity to supplement his
2 application because the application is incomplete as
3 submitted pursuant to Virginia Gas & Oil Regulations VR-
4 480-05-22.2. Section 7, Subparagraphs 11 and 15.

5 MR. HARRIS: Second.

6 MR. CHAIRMAN: A motion and a second. Any further
7 discussion? All in favor signify by saying yes.
8 (MAJORITY AFFIRMS.) Opposed say no. (ONE ABSTAINED.)
9 One abstention. Thank you.

10 MR. MULLINS: So as I understand the ruling, if we supplement
11 the application pursuant to those two subparagraphs of
12 that regulation that will satisfy the Board as to the
13 application?

14 MR. EVANS: This application is incomplete as submitted. You
15 haven't given anybody a right or a number for participa-
16 tion.

17 MR. MULLINS: Part of that is due to difficulty inherent in
18 this 20 year old well and fixing a figure to it. And I'm
19 not trying to argue with the Board, but is what the Board
20 saying that either -- since the records aren't complete
21 and not even in our possession as to the cost of the well
22 then if we can't come up with a figure we'll have to give
23 the well, as far as the expense of putting it in, to
24 other claimants if we're ultimately not ruled to be the
25 owner thereof?

1 MR. EVANS: My motion and the second and the ruling was that
2 it's incomplete. It's up to you to make it complete.

3 MR. HARRIS: I think maybe if you had an estimate of what it
4 would cost if you were to drill it or to complete it to a
5 point if you are going to market and sell gas -- I mean,
6 I'm sure there are some costs associated with this and I
7 think that if someone wanted to participate -- if at some
8 point it was deemed that other people do have an interest
9 in this and decide well, I want to participate then I
10 think there would have to be some amount for them to --

11 MR. MULLINS: Some hard figures.

12 MR. LEWIS: Yeah. And then look at it and say we will
13 participate or we won't.

14 MR. HARRIS: I'm not sure if the Board knows what's approp-
15 riate in terms of expense, but I think one of the things
16 we were concerned with is that the three AFEs were not
17 particular to that well and that an average of other
18 wells, especially including fracking charges, that that
19 was not appropriate for that well.

20 MR. EVANS: There's the division of interest issue and also
21 what interest is being divided -- they have to have some
22 number. You have to have some number and remember, it's
23 an estimate. They have to have some number to apply
24 percentage of ownership to to say okay. I want to pony up
25 x number of dollars to participate in this well because

1 that is part of their election right.

2 MR. MULLINS: Other than that the application was found

3 complete except for those two deficiencies, is that --

4 MR. CHAIRMAN: There was no decision made on that completeness

5 overall.

6 MR. EVANS: It was incomplete because of that. We did not go

7 beyond that. If you want to supplement to check over

8 your application, make sure that everything else is okay

9 this is fine. But those issues are not present.

10 MR. CHAIRMAN: They weren't before the Board. So we didn't

11 act on all the other issues stipulated in the regulation

12 that the Board set out on the application to pool the

13 interest which is in Section 7 of the Regulations.

14 MR. MULLINS: Let me ask a question about notice now. What

15 will be required of us insofar as notice to the parties

16 or to the individuals since our -- it's our position

17 since our application has been pending we don't need to

18 provide supplemental notice to everybody as to this

19 proceeding. All the interested parties were notified and

20 could have been present. Is the Board going to require

21 us to send out either entire new applications to all the

22 interested parties or is the Board only going to require

23 us to provide supplemental information to the parties by

24 regular mail? What is the Board going to require of us

25 as far as the supplement information that's going to be

1 required by the Board?

2 MS. RIGGS: I assume you're going to amend your application at
3 least as to exhibits to set out the percentage of
4 interest of the conflicting claimants?

5 MR. MULLINS: What I would have in mind is just preparing
6 addendum to the application to satisfy what's been
7 brought up by the Board. I hadn't intended to redo the
8 entire application itself.

9 MR. HARRIS: Mr. Chairman, there's a question I have about
10 interest and it may not be appropriate, but I think the
11 Board's interpretation of interest is people who claim
12 ownership in the gas, in this particular case the gas
13 underlying the tract. The affidavits that you submitted
14 were from lots of the folks that were listed as interest-
15 ed parties. Is your interpretation of interest people on
16 the surface who may have been connected before who are
17 saying -- according to their affidavit it appears
18 they're saying, "I'm interested in seeing the gas
19 produced here." Is the interest that type of interest in
20 terms of a support of the application or is it really
21 interest in terms of our interpretation that these people
22 are actually claiming ownership?

23 MR. MULLINS: I have a broad view personally of claimants. It
24 includes -- and I don't think you can restrict it to just
25 coal owners or gas owners. I've also included surface

1 owners because there is no Virginia law on the point as
2 to who owns the gas.

3 MR. HARRIS: So if I live in the neighborhood and I'm interes-
4 ted in that gas --

5 MR. LEWIS: If you own the surface, not the mineral.

6 MR. KELLY: So it is limited to some type of ownership?

7 MR. CHAIRMAN: If I can go back and answer your question that
8 you asked, though, about notice, the parties before --
9 they had an opportunity, the ones that were noticed, to
10 attend this hearing today. The continuance of the Board
11 the Board will publish in it's next agenda will be
12 published. I think the thing you need to be concerned
13 about to the extent any parties not named in the hearing
14 today, any interests that are affected in any way or
15 changed, the parties would have to be notified again. So
16 the notice requirements of the Board for pooling is very
17 strict notice requirements, that everyone have an
18 opportunity. So anything that affects that interest, if
19 it's changed in any way or new parties are added which
20 typically change it -- not always, but typically change
21 it would require --

22 MR. MULLINS: Are you talking about transfer of ownership or
23 something like that?

24 MR. CHAIRMAN: I'm talking about if you have to identify other
25 parties of the pool that you're draining and those kinds

1 of things. You'd have to notice any change in the
2 ownership interest.

3 MS. RIGGS: Here the allocation of a percentage of interest to
4 their claim would constitute something material to them.
5 They may wish to challenge the percentage allocated to
6 their interest. So that affects an ownership interest.
7 That in turn impacts on the cost of participation to
8 them. You may say they own two percent as a conflicting
9 claimant. They may say they own 20. Do you see what I'm
10 saying? So in that you haven't outlined any percentage
11 of interest to those people now in order for them to
12 calculate participation and you are now going to do that,
13 that would impact on their decisions whether to contest
14 or not to contest. Does that make sense?

15 MR. MULLINS: I think I follow.

16 MS. RIGGS: That's personal to them, the allegation as to
17 what their potential claim may be.

18 MR. MULLINS: To answer a question you asked, during the
19 pendency of a period of production of this well there was
20 a statute in place in Virginia that gave surface owners
21 the presumptive rights to all migratory gases. That
22 statute's been appealed but in it's repeal the Legis-
23 lature specifically said that it was not saying the
24 surface owner didn't own it but they were saying that
25 we're removing the evidentiary presumption. So that was

1 one of the reasons why we felt it necessary to include
2 surface owners because there's that question out there
3 during the age of this well and all the other factors
4 that led us to think that we had to give -- that we ought
5 to give notice to all these people.

6 MR. HARRIS: My question stems again from the affidavits
7 because the affidavits by and large said that we support
8 the application and we encourage the development and
9 whatever. It didn't really say we claim 20 percent. You
10 see what I'm saying?

11 MR. MULLINS: Right. I understand.

12 MR. HARRIS: So the interests that the Board looks at I would
13 think would be here's someone who's a surface owner that
14 says I own ten percent of that gas that comes out of the
15 ground. I didn't see that from any of the affidavits.
16 All I saw was we support the application and we encourage
17 the development and whatever. To me the interest is
18 defined differently in those cases.

19 MR. LEWIS: He claimed 100 percent.

20 MR. MULLINS: Right. Mr. Ratliff claimed 100 percent and the
21 purpose of the affidavit wasn't really to establish the
22 percentages. The purpose of the affidavits was to show
23 of those that signed the affidavits that he was able to
24 get up with that they supported the application. It
25 wasn't made to define their interests.

1 MR. HARRIS: What prompted the question was you asked about
2 notice. If these people indeed claim a percent of
3 interest then they need to be noticed, I would imagine.

4 MR. MULLINS: They've been noticed pursuant to our original
5 application. I mean, they've been noticed of what's
6 going on here today and the continuation of, if that's
7 what you were asking.

8 MR. HARRIS: I don't know if I need to belabor that, but I
9 guess it's the definition of interest and I guess if they
10 are claiming a percentage of ownership then they are
11 interested parties. If they are saying I'm interested in
12 making sure that this goes forward then I don't know if
13 we use the same word "interest". It's not defined the
14 same way.

15 MR. MULLINS: I think I'm beginning to see. In other words,
16 you're saying if they don't want to claim any percent we
17 don't need to wool with them basically.

18 MR. CHAIRMAN: I would just offer that the Gas & Oil Office
19 will be available to assist with any questions you have
20 and try to help in any way that they can in making the
21 application complete and get it properly before the
22 Board.

23 MR. MULLINS: We'll try to do that the next monthly meeting.
24 As the Board will recall, our deadline to get this done
25 pursuant to the permit was by February 15th, 1995. We

1 would like to ask as a separate matter since the Board,
2 due to unavoidable circumstances was unable to meet last
3 month, that we be given a 30 day extension or to the
4 Board meeting in March. We anticipate being back in
5 January but we'd like to ask for an extension to the
6 March hearing.

7 MR. CHAIRMAN: We can take that up next month and you can just
8 include that in the continuation as a part of the
9 request.

10 MR. FULMER: Is that a motion to modify the original Board
11 order?

12 MR. CHAIRMAN: We'll just take it up next month.

13 MR. FULMER: What I'm asking is it a request to modify because
14 have to put it on the agenda item, a request to modify.

15 MS. RIGGS: Right.

16 MR. CHAIRMAN: Yes. Right. The Board on it's own motion will
17 consider it.

18 MR. MULLINS: Could you give me the regulation number again?
19 I couldn't get it all down. VR480-05-.2.2

20 MS. RIGGS: Section 7.

21 MR. CHAIRMAN: We're going to adjourn for lunch. Try to be
22 back here by 1:00.

23 (AFTER A LUNCHEON RECESS, THE HEARING CONTINUED AS
24 FOLLOWS:)

ITEM VI

MR. CHAIRMAN: We're going to move on the agenda to Item VI.

This is a petition from Buchanan Production Company for an order creating a sealed gob unit and pooling. The unit is identified as VP3-SGU and is located beginning at Virginia South State Plane coordinates that are listed in the application. This is docket number VGOB-94/12/13-0485. We'd ask the parties that wish to address the Board in this matter to come forward at this time, please.

MR. SWARTZ: Mark Swartz here representing Buchanan Production Company, the applicant.

MR. CHAIRMAN: Are there any others that wish to address the Board? The record will show there are none. You may proceed, Mr. Swartz.

MR. SWARTZ: I'd like to take a few minutes at the beginning to just familiarize you with what we'll be talking about today. There are a couple of issues that are wrinkles that are a little unusual that I'll talk about so that as the testimony proceeds you can perhaps focus on those. This is a sealed gob unit. Exhibit A-1 which is behind tab one in this bound volume shows the sealed gob unit which is this black, almost a rectangle and it's overlaid over a portion of the Oakwood Field, not because we're

1 suggesting that field rules are relevant but because it
2 locates it for you. Then if you turn to the back of the
3 book there are two maps that fold out and maybe we'll
4 start with the last one to again give you -- the sealed
5 gob unit that we're going to be talking about is outlined
6 in orange on Exhibit A-A which is behind tab eleven.
7 You'll see that we tried to follow the intersection of
8 entries at the perimeter of the mine and solid blocks of
9 coal where we can. It shows -- by looking at the entries
10 and so forth you can tell where the seals have been
11 installed. But this is the sealed area of the VP3 mine
12 that we're attempted to create a sealed unit for today
13 and then to pool that unit. The map ahead of the mine
14 map shows you the 32 tracts that are involved in the
15 pooling application and puts the Oakwood grid over it
16 just to give you an idea somewhat of the size of this
17 unit. It's slightly less than 2,000 acres. Again, with
18 reference to Exhibit A you'll notice there are different
19 kinds of well symbols here. Initially the wells -- there
20 are ten wells down in the R row that have been producing
21 from the R and S rows and that are black. Those wells
22 are permitted wells. They had been producing active gob.
23 This mine was sealed December 23rd, 1993, roughly a year
24 ago. At the time -- and Les will talk about the sealing
25 and so forth, but at the time the mine was sealed these

1 ten wells had been producing active gob and when the mine
2 sealed, of course, we were in a sealed gob situation.
3 The brown wells above are additional proposed wells as
4 well as the two blue wells up here. Since December
5 Buchanan Production has continued to produce the ten
6 permitted wells and essentially we were fortunate enough
7 that the acreage all ten of those wells -- I'll give you
8 another map and then we can ultimately move to the
9 testimony, but I think you need to understand some of
10 this. We were fortunate enough that the areas around all
11 ten of those wells were subject to leases and we could
12 form voluntary units. It's a little different. It shows
13 the radius. Basically the only difference for the new
14 lines in Exhibit E that I just gave you is it draws a
15 radius around each of the ten wells that I've been
16 talking about it. It's a 251 foot radius. So the
17 diameter of these units are roughly 500 feet. The
18 statewide spacing for sealed gob would drive a unit of
19 this size. And essentially, as Les will indicate later
20 to you, the acreage within that circle is all subject to
21 leases in favor of Buchanan Production Company with
22 regard to all of these units. What we are going to be
23 asking for today is to create this sealed gob unit as
24 depicted in the exhibits that we have quickly looked at
25 and make the order retroactive to December 23rd, 1993 so

1 that the production from the ten wells which have been
2 produced as voluntary units -- gob units since that point
3 in time can be allocated to the owners of the 32 tracts
4 in the unit we're asking you to create from day one, from
5 the day that it was sealed. In general the revenue has
6 been suspended, although some of the royalty owners
7 received for some period of time some money. But we are
8 in a position, if this is approved, to make the deposit
9 for the unleased owners with the escrow agent and recoup
10 any over payments to our lessors and square up with
11 everybody from the date of sealing forward. There is one
12 other wrinkle that's a little different that you don't
13 normally see here. In our application and in this tab
14 book of exhibits you've got today there are several forms
15 of what we normally show you as Exhibit B. Normally in
16 Exhibit B we list everybody that we want to force pool.
17 Here there is an Exhibit B and several other exhibits
18 which follow -- I think B-3 -- which differentiate
19 between people that we have joined as respondents who we
20 have leases with and people we've joined as respondents
21 because we do not have leases. We have decided to and
22 have, in fact, noticed all of our lessors with regard to
23 this pooling application and application to create a
24 unit which is something that we normally would not do.
25 The reason our lessors have been noticed in the applica-

1 tion is our pooling provisions in our leases with our
2 lessors did not envision or allow us to create and
3 voluntarily pool a 2,000 acre unit. Typically they're
4 160 acres, 240 acres. So we have noticed all of our
5 lessors. The application and the notice actually states
6 that we're creating a larger unit and states that they
7 are not going to be afforded election rights because we
8 have leases with them. But in order to create this unit
9 we felt we had to give everybody notice because we do not
10 have a contractual ability to create a voluntary unit of
11 this size and that's why we have noticed those people.
12 So the two wrinkles that you don't normally see are 1)
13 We'll be asking that this order be retroactive to the
14 date the mine was sealed. 2) You'll notice that our
15 lessors are joined as parties. That's to create the
16 unit. Obviously we talked to a number of them about
17 this, but to create a unit of this size only and that
18 we're not requesting that they be afforded election
19 rights. And they are clearly identified in the applica-
20 tion. Because this is a little different feel free to
21 interrupt as Les and I go through this or as usual you
22 can have it when I finish.

23 COURT REPORTER: (Swears witness.)
24
25

LESLIE K. ARRINGTON

a witness who, after having been duly sworn, was examined and
restituted as follows:

DIRECT EXAMINATION

BY MR. SWARTZ:

Q. Could you state your full name for us?

A. Leslie K. Arrington.

Q. And who do you work for, Les?

A. Consol.

Q. Are you here on behalf of the applicant?

A. Yes, I am.

Q. The applicant is Buchanan Production?

A. Yes, it is.

Q. Did you do the drafting and work on the notice of hearing
and the application?

A. Yes, I did.

Q. Fact: you have signed both of them, have you not?

A. Yes, I have.

Q. Is Buchanan Production Company a Virginia general
partnership?

A. Yes, it is.

Q. And that partnership has two partners, Appalachian
operators, Inc. and Appalachian Methane, Inc., is that

1 correct?

2 A. Yes, it is.

3 Q. Are both of those corporate partners in Buchanan Produc-
4 tion Company wholly owned indirect subsidiaries of
5 Consol. Inc.?

6 A. Yes.

7 Q. Is Buchanan Production Company authorized to do business
8 in Virginia?

9 A. Yes, it is.

10 Q. Who are you asking that the Board appoint as designated
11 operator if this application is approved?

12 A. Consol. Inc.

13 Q. Consol is a Delaware corporation?

14 A. Yes, it is.

15 Q. Is Consol authorized to do business in the Commonwealth
16 and has it registered with the DMME and does it have a
17 blanket bond on file?

18 A. Yes, it does.

19 Q. There are certain exhibits behind tab nine that deal with
20 the relationship between Buchanan Production Company and
21 Consol. is that correct?

22 A. Yes, it is.

23 Q. And essentially would it be fair to say that Buchanan
24 Production Company has delegated to Consol the respons-
25 ibility to maintain and operator it's properties?

1 A. Yes, it has.

2 Q. And that these documents behind tab nine are written
3 evidence of that delegation, the acceptance by Consol.
4 Inc. of the duties to maintain the BPC properties?

5 A. Yes, it is.

6 Q. Now, with regard to the notices here there is a section
7 in the tab exhibit that we passed out to the Board
8 members today behind tab two. What is that?

9 A. That is the certification of notice, where we mailed the
10 application and notice to all parties.

11 Q. So what would have been mailed would have been the
12 application, the notice, Exhibit A-1 and so forth?

13 A. Yes.

14 Q. Did you mail to everyone listed in the notice for whom
15 you had an address?

16 A. Yes, we did.

17 Q. Does the certificate of notice or certification of notice
18 indicate the status of the mailing?

19 A. Yes, it does.

20 Q. As of what date? Was it last Friday?

21 A. 11/6.

22 Q. And it indicates when the items were mailed, when the
23 receipts indicate they were received and if there is a
24 blank that means you still don't know what the status is?

25 A. That's correct.

1 Q. There are a few of those?
2 A. Yes, there is.
3 Q. And return means that the whole packet came back?
4 A. That's correct.
5 Q. Did you also publish a notice with regard to this matter?
6 A. Yes, we did, on November 14th in the Bluefield Daily
7 Telegraph.
8 Q. What did you publish?
9 A. The notice of hearing.
10 Q. And the little map as well?
11 A. Yes.
12 Q. Exhibit A-17
13 A. Yes.
14 Q. With regard to any amendments, do you wish to amend this
15 to add any respondents?
16 A. Yes, we do. That's listed on our Exhibit B-2 and
17 additionally they have also been added to our Exhibit B.
18 You get a good listing of them in Exhibit B-2 behind tab
19 six.
20 Q. Why is it that we're adding some additional folks here?
21 A. Those additional people were the Ratliff heirs. We did
22 not originally have those people listed, didn't know they
23 existed. We have in the course of due diligence found
24 that there were more heirs. We did send them notice and
25 they have been listed with the proper interests.

1 Q. So between the time that the notice and application was
2 originally filed which presumably was around the middle
3 of November some additional heirs to the Ratliff heirship
4 were identified?
5 A. Yes, there was.
6 Q. Did you mail to everyone for whom you could obtain an
7 address?
8 A. Yes, we did.
9 Q. Is that indicated in the certification of notice?
10 A. Yes, it is.
11 Q. If the Board were to refer to Exhibit B-2 which is behind
12 tab six, that actually lists the additional people, does
13 it not?
14 A. Yes, it does.
15 Q. The folks that need to be added as respondents are listed
16 at B-2 and they are in tracts four and seven, correct?
17 A. That is correct.
18 Q. In tract four it would be the people identified at B, C,
19 N, P, Q, R, S and T, is that correct?
20 A. That is correct.
21 Q. And with regard to tract seven the additional Ratliff
22 heirs are essentially at the same letters, B, C, N, P, Q,
23 R, S and T?
24 A. That's correct.
25 Q. Do you wish to dismiss today any respondents and if so,

1 who would that be?

2 A. Yes. That would be Clarence Ramey. It's also listed on

3 Exhibit B-2 as Clarence Ramey. Buchanan Production

4 purchased his interest.

5 Q. He was in tract one?

6 A. Tract one, yes.

7 Q. And he can be dismissed because his interest was ac-

8 quired?

9 A. Yes, it was.

10 Q. Has Consol, Inc. on behalf of Buchanan Production Company

11 exercised diligence to continue to identify and locate

12 people who have record title to the oil, gas and/or coal

13 under this proposed unit?

14 A. Yes, we have.

15 Q. Are you continuing to do that and will continue into the

16 future to identify them?

17 A. Yes, we do.

18 Q. To get some idea as to how many folks or what interests

19 this application would affect, Exhibit A, Page 2, which

20 was amended -- it's behind tab four. This is a revised

21 exhibit, is it not?

22 A. Yes, it is.

23 Q. What is the outstanding coal interests, the outstanding

24 oil and gas interest that is sought to be affected by

25 this pooling application?

1 A. We want to pool 5.9538 percent of the coal interest and
2 8.6516 percent of the oil and gas interest.
3 Q. Are the balance of those interest which you're not
4 seeking to pool, the coal and/or oil and gas, are those
5 leased by Buchanan Production Company?
6 A. Leased or owned, yes.
7 Q. So literally you have acquired by lease or purchase more
8 than 90 percent of both interests?
9 A. That's correct.
10 Q. In terms of leasing and in terms of making a recommend-
11 ation to the Board what lease terms should be inserted in
12 any order that the Board might enter if this application
13 is approved, what are the terms of the leases that you
14 have offered and will continue to offer people to join in
15 this unit?
16 A. \$1 per acre rental with a one-eighth royalty with a five
17 year term.
18 Q. And that rental would be payable for how long?
19 A. On an annual basis until production commences.
20 Q. Once production commenced it would cease?
21 A. That's correct.
22 Q. Would you recommend that those terms be implemented in
23 any Board order with regard to people who are deemed to
24 have leased?
25 A. Yes, we would.

1 Q. With regard to this drilling unit that we're proposing.
2 Les, if you could refer to the map that has the mine
3 works on it which would be Exhibit A-A, is the proposed
4 unit outlined in what I'll call orange on Exhibit A-A?
5 A. Yes, it is.
6 Q. How many acres does this proposed unit contain?
7 A. It contains 1,868.09 acres.
8 Q. There are a number of wells noted on this map and all the
9 wells are a large circle, correct?
10 A. That's correct.
11 Q. That vary in colors?
12 A. That's correct.
13 Q. What are the tan wells in the bottom two longwall panels?
14 Are they permitted wells? What's their status?
15 A. Yes. Those are permitted wells that are in actual
16 production. The red or the orange color wells are wells
17 that are potential wells that we plan on hooking up. The
18 two bluish green wells up near the top are just proposed
19 wells for sometime in the future possibly.
20 Q. This application would seek an ability on Consol's behalf
21 in working for Buchanan Production to operate a maximum
22 of eighteen wells in this unit, correct?
23 A. A maximum of eighteen with only fifteen of them being
24 requested in this application.
25 Q. Or at least the cost for --

1 A. Costs for fifteen wells.
2 Q. So essentially this application requests an ability to
3 utilize eighteen wells but when you get to the cost
4 section the cost of only fifteen wells have been consid-
5 ered?
6 A. That is correct.
7 Q. The little green symbols, what are those?
8 A. The green symbols are the vertical ventilation holes that
9 were drilled inside the mine area.
10 Q. Which in theory could be used to drain the gob area but
11 are not apparently going to be put to use to do that?
12 A. That's correct.
13 Q. With reference to --
14 MR. EVANS: Excuse me. Real quick before you go too much
15 further. On the VVHs that you just alluded to, those
16 have been drilled, you say, within the mine from surface
17 to the mine? Are they still open?
18 THE WITNESS: Yes.
19 MR. EVANS: Do you plan to leave them open and vent --
20 THE WITNESS: They are there just for mine safety purposes in
21 case we do need to vent.
22 MR. EVANS: Are they free flowing or do you have control over
23 those?
24 THE WITNESS: We do have control over those.
25 Q. (Mr. Swartz continues.) With regard to venting, Les,

1 these ten wells that have been operating and producing in
2 the first two panels at the bottom of the exhibit, have
3 they been able to keep the pressure in the sealed area
4 under control or have there been times when you have had
5 to vent?

6 A. Not to date.

7 Q. You have had to vent or you have not had to vent?

8 A. We've not had to.

9 Q. But these VVHs that are controlled would at least give
10 you that capability?

11 A. Yes, it would.

12 Q. With regard to Exhibit E which is the loose exhibit that
13 I handed out to you all a little while ago, when these
14 coalbed methane wells -- the ones that are shown in black
15 -- initially started producing what were they producing?

16 A. When they initially were producing they were producing
17 active.

18 Q. So from the active gob?

19 A. Yes. Active gob.

20 Q. Was the revenue initially, before the mine was sealed,
21 being paid on an 80 acre unit basis?

22 A. Yes, it was.

23 Q. Were there some units in the R and S rows that were
24 actually subject to Board orders?

25 A. Yes, there were.

1 Q. Which units in the R and S rows were subject to Board
2 orders or were force pooled by the Board?
3 A. The R-5, S-5, S-6 and S-7.
4 Q. Then there were some voluntary units as well?
5 A. Yes, there were.
6 Q. Which units were the voluntary units?
7 A. R-6 and R-7, R-8 and S-8.
8 Q. But all of those units were limited to either short hole
9 or active gob?
10 A. Yes. That's correct.
11 Q. For the record, when was it that the entries in the mine
12 were sealed to isolate the proposed unit from the balance
13 of the well?
14 A. That was December 23rd, 1993.
15 Q. How much notice did you have of that occurring? You as
16 someone acting on behalf of Buchanan Production Company?
17 A. As far as when the mine was sealed?
18 Q. When the mine was going to be sealed. When did you find
19 out?
20 A. Much later.
21 Q. So it was sealed before you were told?
22 A. Yes, it was.
23 Q. It was not something you were jointly planning to have
24 happen?
25 A. No.

- 1 Q. With regard to Exhibit E, what do the circles around the
2 black well symbols represent?
- 3 A. The circle represents a 251 foot radius around each well
4 which puts us into the voluntary statewide spacing.
- 5 Q. What does the Code or State statute provide with regard
6 to spacing for wells from the gob?
- 7 A. No closer than 500 feet.
- 8 Q. Would the size of these voluntary units comply with that?
- 9 A. Yes, it would.
- 10 Q. Within the circles around the ten CBM wells that are
11 colored black does Buchanan Production Company have 100
12 percent of the area in the circles under lease?
- 13 A. Yes, we do.
- 14 Q. So essentially you were able because of your lease
15 position to create these voluntary units?
- 16 A. Yes, we did.
- 17 Q. What are you doing with the royalty revenue from these
18 wells at present?
- 19 A. At present it is being held in escrow or suspense.
- 20 Q. Internally?
- 21 A. Internal.
- 22 Q. In the event that the Board were to approve this applica-
23 tion will you assume that to the extent suspended
24 payments are subject to escrow you could turn around and
25 pay that money over to the Tazewell National Bank or the

1 escrow agent?

2 A. Yes, we could.

3 Q. Are you requesting that the Board order permit you to
4 deposit funds subject to escrow from December 23rd, 1993
5 forward?

6 A. Yes.

7 Q. With regard to the unit and the creation of the unit,
8 what seams or what area is subject to -- or would be
9 subject to the unit that you're seeking to create?

10 A. All coal seams below the Tiller.

11 Q. Now, with regard to costs with the original application,
12 did you submit an estimate on a per well basis with
13 regard to these gob wells?

14 A. Yes, I did.

15 Q. When was that estimate prepared?

16 A. November 9th, 1994.

17 Q. And who prepared it?

18 A. I did.

19 Q. What is the amount of the estimate of the well costs?

20 A. \$139,914.68.

21 Q. Did you attempt to obtain actual incurred well costs with
22 regard to these VVHs?

23 A. Yes, we did. We attempted to define those costs and
24 since it was an acquisition of Island Creek Coal Company
25 some of the records have been misplaced. We could not

1 come up with all the actual costs. So we did use an
2 estimated cost.
3 Q. So the DWE which estimates the cost of one well is
4 roughly \$139,000 should not be assumed to be actual
5 costs. It is your estimate?
6 A. That is correct.
7 Q. Is that \$139,000 figure essentially the same estimate
8 that you are using for new wells drilled today?
9 A. Yes, it is.
10 MR. SWARTZ: At the end of the application that you originally
11 got, not what you got handed out today, Board members,
12 there is an Exhibit G. Is that correct, Les?
13 A. (The witness continues.) That is correct.
14 Q. And using your estimated costs and assigning fifteen
15 wells that gives a number with regard to well costs,
16 correct?
17 A. Yes, it does.
18 Q. And what is that?
19 A. \$2,099,770.20.
20 Q. Then there's a cost for sealing the mine, correct?
21 A. That's correct.
22 Q. What is that amount?
23 A. \$496,850.16.
24 Q. Is that an actual cost, a sealing cost, or is that an
25 estimated cost?

1 A. No, sir. That is an actual cost.

2 Q. That sealing occurred after the acquisition of Island

3 Creek by Consol, I assume?

4 A. Yes, it did.

5 Q. And you were actually able to get figures from them?

6 A. Yes.

7 Q. The total allocated allowable costs that you would offer

8 with regard to this sealed gob unit is in what amount?

9 A. \$2,596,660.36.

10 MR. CHAIRMAN: Let me interrupt you and ask a question.

11 Explain why the sealing cost should be included in this

12 number to be allocated on total well costs, if you would,

13 please. In other words, was sealing required as part of

14 the ongoing mining operations or was this sealing just

15 exclusively to accommodate production of the coalbed

16 methane?

17 THE WITNESS: I think the answer is yes. It's for both

18 processes.

19 MR. CHAIRMAN: Is there any attempt to share those costs? Is

20 that a cost that would just be reflected toward the

21 production of gas?

22 Q. (MR. SWARTZ continues.) Let me ask you this. Is there

23 any allocation of any of the mining costs that created

24 this area and this distressed gob?

25 A. No, there wasn't.

- 1 Q. So the only mining cost that has been assigned is the
2 cost to seal this area off and create the sealed gob?
- 3 A. That's correct.
- 4 Q. So none of the longwall costs, the costs of fracture, the
5 costs of gob that will occur, none of those costs are
6 included here?
- 7 A. That's correct.
- 8 Q. When you seal a mine or a portion of a mine and isolate
9 it from an active part of the mine what impact, if any,
10 does that have on oxygen content and your ability to
11 produce from the sealed area compared to oxygen content
12 and your ability to produce from the same area but before
13 it is sealed?
- 14 A. It will reduce you dilution of oxygen getting into the
15 gas which will make it marketable gas.
- 16 Q. At the surface at -- let's take these ten wells that have
17 been producing historically -- is there any oxygen
18 monitoring equipment on those wells?
- 19 A. Yes.
- 20 Q. That oxygen monitoring equipment, does it interact with
21 venting?
- 22 A. Yes.
- 23 Q. If the oxygen were to cross a certain threshold at any of
24 these wells would they shift from production into the
25 gathering line to vent it?

1 A. Yes.

2 MR. EVANS: Has that occurred in the past?

3 THE WITNESS: I can't answer that.

4 MR. SWARTZ: Claude, do you want to step up here and raise
5 your right hand?

6 COURT REPORTER: (Swears witness.)

7
8 CLAUDE MORGAN

9 a witness who, after having been duly sworn, was examined and
10 testified as follows:

11
12 DIRECT EXAMINATION

13
14 BY MR. SWARTZ:

15 Q. You need to state your name for us, please.

16 A. Claude Morgan.

17 Q. Who do you work for?

18 A. Consol. Inc.

19 Q. And you are one of Consol. Inc.'s designated represent-
20 atives to assist it in managing the affairs of Buchanan
21 Production. Is that correct?

22 A. That's correct.

23 Q. Do you have Ken Evans in mind?

24 A. Yes. We have on occasion had to vent. There have been
25 occasions to relief pressure on the mine we've had to

1 pull harder on the hole. And when we do sometimes the
2 oxygen content will go up a little bit and we have to
3 vent.
4 MR. EVANS: Mr. Morgan, is that since the unit's been sealed
5 or prior to --
6 MR. MORGAN: Both.
7 MR. EVANS: So you still get some oxygen bleed --
8 MR. MORGAN: We still get some through the seals, not nearly
9 as much. It's much easier controlled with the seals in
10 place. That's also the reason for the additional holes
11 that is shown on to the north, in that to try to pull it
12 all out of these southern holes you have to pull much
13 harder and you're more apt to pull some --
14 MR. EVANS: So you create a pressure differential that causes
15 you problems in that -- I'm assuming that you don't know
16 exactly where the oxygen comes from but I would assume
17 that since you've got ten holes down here and you're
18 sucking real hard on them you get a pressure differential
19 between the very northern portion of the sealed unit
20 versus the southern. So you get oxygen coming through
21 the seals whereas if you had a few more holes that you
22 produced further up that you would alleviate that
23 situation to some extent?
24 MR. MORGAN: That's correct.
25 MR. EVANS: Which I assume is why you propose to drill some

1 more holes in the area?

2 Q. (Mr. Swartz continues.) Just to contrast what happens in
3 active gob, Claude, when you are producing from the
4 active gob and you have not isolated the panels that
5 you're producing active gob from from the panels of the
6 mine are there limitations on how hard you can suck on
7 the wells serving the active gob and do you have mechan-
8 isms in place to monitor and optimize the vacuum on
9 these wells to prevent oxygen from coming in?

10 A. The vacuum that we pull along the active gob is dictated
11 by mine safety and it's an amount of vacuum we have to
12 pull to remove sufficient methane to keep it from getting
13 out into the mine area. Obviously we have controls on
14 there where we keep a check on quality and if we can
15 balance the quality with the vacuum we pull it out
16 without it virtually affecting the mine we will do so.
17 But the safety of the mine overrides all this.

18 MP. EVANS: Have you experienced any type of a pressure build
19 up the other way in some sealed area where you have a
20 problem with methane escaping into active works?

21 MR. MORGAN: That does happen on occasion and that's the
22 reason why I say we would have to start sucking harder on
23 these holes to try to alleviate that pressure build up
24 and in doing so may reverse it somewhat and get some
25 oxygen actually into the stream.

1 MR. EVANS: Do you anticipate the additional holes that you're
2 going to drill will also help control that situation?

3 MR. MORGAN: Yes.

4 Q. (Mr. Swartz continues.) Claude, you understand that
5 although we are asking for permission to operate eighteen
6 wells in this unit we have only assigned the costs of
7 fifteen? Do you understand that?

8 A. Yes.

9 Q. Would you agree that one of the reasons and certainly one
10 of the factors for the two northern most proposed wells
11 is to anticipate and deal with pressure?

12 A. That's true. Those two will be the farthest removed from
13 our gathering system. If it's not necessary we will
14 expand this system to the north. If we can control it
15 with the ones that are shown in shaded red we will
16 utilize those. If we still need to vent on occasion for
17 mine safety we'll move on to the north and try to capture
18 the additional with those wells.

19 Q. If there were no mine in place we probably would not be
20 including these?

21 A. That's true because there's a lot of collection system to
22 be able to get to those two.

23 (Witness stands aside.)

24 (Direct-Examination continues of Leslie K. Arrington.)

25 Q. (Mr. Swartz continues.) In any order that would be

1 issued pooling this unit, Les, is the revised Exhibit B
2 the exhibit that should be used to assign interests of
3 people who are actually being force pooled?
4 A. That's the correct interests, yes.
5 Q. What we have in Exhibit B-3 is a listing of people.
6 You've kind of taken the people out of Exhibit B-2 who
7 need to be pooled and they are listed together in Exhibit
8 B-3?
9 A. That's correct.
10 Q. And those are the folks that should have their election
11 rights under the statute -- their division of interests
12 would be relevant to those election rights and royalties?
13 A. That's correct.
14 Q. And then the next exhibit which is Exhibit D kind of
15 pulls out the people you have leases from from Exhibit B
16 who were joined for notice purposes to create this unit
17 and those folks are parties simply to create the unit and
18 should not be afforded election rights because you have
19 leases, is that correct?
20 A. That's correct.
21 Q. Just a couple more questions with regard to this unit and
22 the pooling application. Do you feel that this plan of
23 development as depicted on the map showing the section of
24 the sealed gobs and the wells that are existing and
25 further wells that are proposed -- do you feel that this

1 is a reasonable plan for the development of the coalbed
2 methane resource within and under this proposed unit?

3 A. Yes, it is.

4 Q. Will this unit, if created and pooled, contribute to the
5 protection of correlative rights of all of the owners of
6 the 32 tracts within the unit and also permit the
7 conservation and use of the Commonwealth's resources?

8 A. Yes, it does.

9 MR. SWARTZ: We have from time to time had contact with Sandy
10 Riggs and Danny and Tom Fulmer with regard to this
11 problem that we see today, that a mine gets sealed and
12 nobody is ready for it. This is not something that you
13 need to do today but we have been asked to make some
14 recommendations in the event that the Board would want to
15 take a look at implementing a policy to deal with the
16 transition between active gob and sealed gob. And our
17 recommendations are pretty straight forward. My assumption
18 would be that if it's something you would want to
19 deal with you would notice it for another hearing and
20 everybody could have an opportunity to comment. But we
21 basically have -- Claude and Les and I have talked and
22 we'd certainly be willing to entertain questions with
23 regard to this as well, but we've got about six points
24 that we have raised. First is the goal of any order,
25 whether it's done by order or by regulation since the

1 regulations are coming back on the table, should be to
2 insure that production be allowed to continue. I mean,
3 the worst thing that can happen is you've got the
4 situation that we have here where you've ten wells and
5 you're producing, people are getting paid. You put a
6 couple of seals in the mine and all of a sudden the
7 orders fall out -- the voluntary units fall out because
8 they were created on 80s. Here we were fortunate enough
9 that we controlled the acreage to go forward with
10 voluntary units under statewide spacing. That isn't
11 always going to happen. But the goal of any regulation
12 ought to be to at least allow the production to continue
13 for the period of time that it gets created or till
14 things get squared away and I think also recognize that
15 you're going to have to do things retroactively under
16 those circumstances. We think that any policy adopted
17 should require certain kinds of minimum notice at the
18 time of the conversion. In other words, in the time that
19 the seals are in place. What we would suggest is that
20 any policy adopted should at a minimum require notice
21 upon conversion from active gob to sealed gob to 1) The
22 Board if we're dealing with a sealed gob unit that
23 includes pooled units. 2) The Gas & Oil Inspector's
24 Office and all parties in the active gob unit whether
25 pooled by Board order or voluntarily pooled so that

1 people whose royalty starts getting suspended or whatever
2 have some understanding right up front why that has
3 happened. 3) Any policy adopted should recognize that
4 production should be allowed to continue to the extent
5 that statewide spacing requirements are satisfied and
6 voluntary gob well units can be created consistent with
7 title considerations which is kind of the situation we
8 have here. I mean, we were able to continue under
9 statewide voluntary units because our title happened to
10 work for us. The fourth point would be that I think any
11 policy implemented by the Board, if you really want to
12 deal with this should recognize that situations may
13 arise unlike the one we've got here today where existing
14 permitted wells which have been producing active gob may
15 either not meet statewide spacing requirements and/or
16 have title lease status that doesn't permit the formation
17 of voluntary units. So you might have one of these
18 little, tiny units where you've got five percent out-
19 standing and it's not under lease and what do you do
20 because you can't create a voluntary unit. A temporary
21 solution which occurs to us which would allow continued
22 production with minimum or no venting would be a policy
23 which encourages the filing of an application to create
24 provisional gob units until the necessary work could be
25 concluded to create an appropriate sealed gob unit. I

1 mean, we've done some provisional units here in the past.
2 Looking back to the Roaring Fork, for example, I think
3 there were eighteen units created. I think everybody
4 knew that was the wrong size going in but there was a
5 come back date. So you've got records of production.
6 You've got cost records and you've got an ability to come
7 and balance the books backwards in time when an appropriate
8 unit is created. I would suggest that in situations
9 where title is not -- where you're not fortunate
10 enough to have 100 percent of the acreage that you need
11 under lease that consider be given of provisional units.
12 Obviously the operator would have to come in and file for
13 that and it would have to be pooled, but it's a lot
14 easier to pool a 251 foot radius than a 1,800 acre -- you
15 can get the title done on that fairly quickly so if you
16 get caught like Les did with "Oh, by the way, we sealed
17 the mine a couple of mines ago." "Gee, thanks." at least
18 you have a fighting chance to get the title done on that
19 provisional unit in a fairly quick time and get that
20 money in escrow and then back it up. That's something we
21 would ask to be considered. 5) Notice requirements would
22 be met by mailing to persons whose interests were in the
23 proposed provisional units, at least for the creation of
24 the provisional units. And then the Oakwood units
25 formerly receiving the benefit of production from the

1 existing wells and by the Board noticing other interested
2 parties by publication. The notice problem that we often
3 have is we know who -- presumably if we've filed an
4 application to create a provisional unit we would have
5 done title and we'd know who to notice within that unit.
6 Clearly people who were in the 80 acre unit which have
7 not fallen by the wayside, they need to get notice as
8 well. And the Board would have to notice by publication
9 people that we hadn't identified yet because our title
10 work wasn't done, which has occurred some times in the
11 past. I mean, that would be something you would have to
12 think about. Otherwise you couldn't give notice.

13 MS. RIGGS: Mark, at the time you come in for the provisional
14 unit you would know the ultimate sealed area that you're
15 going to seek to be within the sealed gob?

16 MR. SWARTZ: My guess is that we would know where the seals
17 were. The problem that you have -- and we've been
18 through this on some of the other sealed gob units and
19 we've learned a lot from you all also. We tend to come
20 in with stuff that you don't look at go, wait a minute.
21 We know where the seals are and you know roughly what the
22 area is going to be and what has happened in the past is
23 we have learned that it's a good idea to have the lines
24 parallel to last entry where it butts up against a solid
25 block of coal. So in general, yeah, we're going to have

1 a pretty good idea of where the outline is going to be.
2 But we sit down and look at these things and some of the
3 lines move a little bit. So we have a pretty good idea.
4 You could publish a rough map. But we're not going to
5 know the millimeter. A line might move. And we're
6 certainly not going to have title completed. I mean,
7 that's the problem. So by publishing a map you would
8 have -- the Board would have an ability, I think, to
9 communicate a reasonable form of notice if this were
10 something you were going to do. But notice to some
11 extent is going to have to be by publication by you all
12 because the problem is we don't have the title work and
13 we can't give mailed notice and we can't certify that we
14 have. Then the last point. any Board policy should
15 contemplate and provide for escrow of all royalties on
16 production between the time the mine was sealed and the
17 time of the entry of the Board's order creating and
18 pooling an appropriate sealed gob unit, that the monies
19 would have to be escrowed or should be escrowed during
20 the use of provisional notice to kind of tie you over.
21 But this policy should afford the operator the option of
22 paying projected royalties in the projected sealed gob
23 unit. Getting back to Sandy's question, you have a
24 pretty good idea what the unit is going to look like.
25 You probably will title done on some of it and some

1 acreage estimates with regard to some of your lessors.
2 And the operator ought to have the option of paying those
3 people where conflicting claims wouldn't otherwise
4 prevent payment and then when the order is entered and
5 the percentages are fixed you either recoup from them
6 because you've overpaid as an operator or you've overpaid
7 into escrow and the shortage comes out of escrow to catch
8 them up. If the operator is willing to accommodate some
9 of its lessors on a projected basis and their interest is
10 large enough to allow recoupment or the shortage to be
11 paid out of escrow, that's something you need to consid-
12 er. Obviously you need to make sure there's enough money
13 in the escrow funds to take care of everybody at the end.
14 And I don't know if this is something you can do or not,
15 but it's something -- the problem is you've got a bunch
16 of people who have been being paid right along and it all
17 of a sudden comes to a screeching halt. To the extent
18 they can safely be accommodated or the operator is
19 willing to undertake to accommodate them and then by the
20 escrow agent I don't know. It's something you need to
21 think about as well, though. That's all I have in terms
22 of the application to create the unit and then the other
23 application to pool it. Have you got any more questions?

24 MR. EVANS: On the voluntary units that have been formed, that
25 you've been 500 diameter units, you said the royalty

1 payments have been is suspense. For how long?

2 MR. SWARTZ: Since June.

3 MR. EVANS: And prior to that obviously you didn't know that
4 the mine was sealed. So you didn't know you had a
5 problem and you paid just right straight along from
6 1/1/93 to 6/30/93?

7 MR. SWARTZ: We're going to have a recoupment problem.

8 Fortunately Levisa has -- if you look through the list
9 Levisa has a high position here. They have been getting
10 most of the payments and we will have an ability to
11 square up them on a recoupment basis. But you're right.
12 That's a problem. We've over paid them but they're going
13 to have a big interest in the unit into the future and
14 we'll have an ability to get it back.

15 MR. EVANS: I'm just trying to think of the ramifications of
16 the retroactive nature of your request to go back.

17 MR. SWARTZ: Have you talked to the Levisa people, either one
18 one of you, about this?

19 MR. MORGAN: The land people have been in contact with them.

20 MR. EVANS: Obviously since they're not here you can't -- no
21 one can tell me how they view the situation with
22 their --

23 MR. MORGAN: We understand. I mean, there are some people
24 involved with Levisa who are understanding of oil and gas
25 operations and they understand the situation that's

1 involved here.

2 MR. EVANS: Let me ask this another way then. Absent or
3 excluding Levisa who seems to understand and is willing
4 to do this, what percentages are we talking about that
5 aren't Levisa's or whoever? How many people do you plan
6 to eat the difference of a certain percentage of these
7 people that say, No, you paid me and it's mine. I'm not
8 giving it back."

9 MR. SWARTZ: Well, they don't really have that option if we
10 have a lease with them. So the percentage is pretty
11 small.

12 MR. EVANS: That was my question.

13 MR. SWARTZ: I didn't mean to jump in there, but that's sort
14 of a legal -- you have a right to recoup under your
15 leases. We've got less than ten percent of each interest
16 outstanding and not all of it is in these units.

17 MR. EVANS: I understand recoupment. It was just for my own
18 gratification.

19 MR. SWARTZ: You could get it hugely upside down. I mean,
20 fortunately the percentages are not such here to have
21 that happen but you could. You could get in a position
22 where you could not recoup.

23 MR. EVANS: Right. And that's --

24 MR. SWARTZ: Right. Are they more concerned about the fact
25 that you stopped paying them in June than you intended to

1 have this order be retroactive?

2 MR. MORGAN: More of the fact that we stopped paying in June.

3 They question why the payment quit in June and not to go

4 back to --

5 MR. EVANS: Not the amount of payment. It went from something

6 to nothing. I can see how they'd be upset.

7 MR. MORGAN: That's what had to be explained to them, was that

8 it was converted to a sealed gob which changed the

9 allocation which we have to reallocate.

10 MR. HARRIS: I want to get back to the cost for sealing. This

11 is a stupid question. What's the price list for sealing?

12 MR. MORGAN: It is a two fold cost. It is a two fold opera-

13 tion. One, it really lessens the contamination of the

14 gas from the mine air. So it benefits the gas production

15 from that standpoint.

16 MR. HARRIS: Well, from the mining standpoint, though --

17 MR. MORGAN: From the mining standpoint it's an area that is

18 not then required to be ventilated. So there is a dual

19 benefit from the sealing.

20 MR. HARRIS: \$490,000 or so, was that the total cost for that?

21 MR. MORGAN: That was the total cost for sealing of that area.

22 MR. HARRIS: I don't know how we usually handle that. It just

23 seems odd that this is being passed on to the gas

24 recovery portion of it rather than the mining.

25 MR. MORGAN: Previous sealing applications have had the costs

1 in there and hadn't been approved. That question has
2 come up in previous sealing applications.

3 MR. SWARTZ: With regard with to costs, basically what we did
4 is -- this is not exhaustive, but we went back and took
5 thirteen pooling applications that have come before this
6 Board in the last couple of years and that have been
7 approved, some of them coalbed methane, some of them
8 conventional, and took a look at the costs for comparison
9 purposes. Essentially you've got three graphs which kind
10 of summarize the data. The first one is well costs and
11 the three digit number is the last three digits of the
12 VGOB numbers. They're in order. So you can identify
13 them pretty easier. And then at the end is the VP3 on a
14 per well basis. What we did for VP3 was we took the
15 total costs, the cost of the sealing and total cost of
16 fifteen wells and, in fact, included the sealing cost
17 divided by fifteen and then allocated to the well. And
18 this is how the VP3 per well costs compare to these other
19 wells. There are number that are more expensive obvious-
20 ly that did not include sealing costs. I think the more
21 interesting exhibits are when you get back to BCF per
22 well you'll see that each of these wells is above or
23 equal virtually to all of the other wells. And then
24 lastly, what I call bag for buck, this is the MCF per
25 dollars spent and you'll see how the VP3 wells compare.

1 And I guess it doesn't answer all of your concerns that
2 some of these costs serve an oil and gas purpose, some of
3 these costs serve a mining purpose, but I think what it
4 shows you is that from an economic standpoint a dollar
5 spent on these wells compares favorably in terms of well
6 costs, even when you include sealing costs. And when you
7 look at anticipated reserves and recovery these are among
8 some of the most efficient in terms of return on a dollar
9 wells that this Board seeks. Unless you can undertake
10 such a comparison you don't see this. But --

11 MR. HARRIS: With all due respect to that it's just disturbing
12 to me that that's cost is passed on to the well end of it
13 and none to the mining. We make take twelve other wells
14 and compare them and find that there is a large differ-
15 ence there. I'm not knocking your data. I'm just
16 saying that --

17 MR. SWARTZ: It's a decision that the Board needs to make. I
18 mean, I sometimes feel that we're shooting at a moving
19 target. We have gotten 100 percent on a dollar on
20 sealing costs in the past and I'm not suggesting you are
21 bound by that. I'm just -- frankly it was not -- we
22 anticipated more of a problem with the number of wells
23 today than we did we sealing costs and sometimes we guess
24 right and sometimes we guess wrong. I guess my point,
25 though, is that the per well costs given anticipated

1 reserves certainly seems to be on the high end and in the
2 range of reasonable in terms of money spent for a
3 projected returned. Beyond that I can't and my witnesses
4 can't -- these seals serve a multiple purpose and I can't
5 really offer a number.

6 MR. HARRIS: To me the odd thing about it is addition to the
7 -- the seals were put in place. The mine was sealed
8 without the knowledge apparently of the folks who would
9 be distributing the cost of that. It's just real odd
10 that it got sealed. Who paid for it then? At some point
11 that was paid for and I know that you can reallocate
12 money and whatever. But it's just odd that that got
13 sealed and then we were informed of it and now the
14 participants are expected to pay for that.

15 MR. CHAIRMAN: Let me ask you from a different prospective. I
16 know you talked about the eighteen wells and the fifteen
17 wells. Would you care to go back and maybe even repeat
18 some, but just explain why you've only put fifteen wells
19 in here versus the eighteen wells that you may ultimately
20 develop as far as the costs?

21 MR. SWARTZ: Just to summarize what I think the testimony has
22 been. I think what Claude and Les have both indicated as
23 our interest structure -- in other words, our gathering
24 system is essentially down here. And the two wells at
25 the top which are the furthest away may ultimately be

1 necessary to keep pressure under control which would be a
2 mine safety related issue. Hopefully we won't need to
3 get to those and we won't need to use those, but we may
4 not be able to suck hard enough on these wells down here
5 to keep the pressure under control up there. I mean, you
6 literally have to pick kind of a position and our
7 position was that we were willing to assume that three of
8 the eighteen wells that we want the ability to drill
9 here -- we were just going to write costs of those off as
10 venting wells for the mine. If the mine wasn't there and
11 we needed to drain this area we don't need those three.
12 So three times 139,000 is not included in this applica-
13 tion. Is that based on what you --

14 MR. MORGAN: That's basically true.

15 MR. CHAIRMAN: Is it your position that you could have built
16 in the costs of those other three wells?

17 MR. SWARTZ: Well, we could have but we've dealt with you all
18 before, too, you know. We try to come here already
19 having compromised to some extent. Yeah, we could have
20 asked for that and I don't think would have -- we
21 wouldn't have been embarrassed to ask for it, but I don't
22 think our expectation was we were going to get it either.
23 Basically we've been getting about one well per panel in
24 a sealed gob unit historically. It's been our experience
25 that you have perceived that to be reasonable. And we

1 looked at the panels here. We looked at the mine
2 configuration. We looked at where our infra-structure
3 was and frankly we're not going to build our infra-
4 structure up to the north here if we can possibly avoid
5 it because it's too expensive. We'd rather pull harder
6 down here. But if it becomes necessary it's because of
7 mining. So we kind of threw in the towel on three -- I
8 mean, we're asking for eighteen wells and we really do
9 need permission for that to operate eighteen wells but we
10 have thrown in the cost of three of them which is roughly
11 \$390,000. We sort of approach this as -- we like to come
12 in with something we feel like we can defend and we
13 didn't feel like we could defend eighteen wells -- the
14 cost of eighteen. There are certainly benefits associat-
15 ed with these seals for both operations. We chose, I
16 guess, to kind of lay down on some of the wells but to
17 seek the cost of the sealing and it's a judgement call
18 that we all make.

19 MR. HARRIS: When we've had these -- and this is for the
20 Board. When we've had other situations like this -- and
21 I think you said we've paid for sealing before? Was that
22 just for your all's wells or was that for --

23 MR. SWARTZ: I think it's for PGP and Buchanan Production
24 both.

25 MR. ARBINGTON: I know it was on the PGP. The previous

1 Buchanan Production was before we took over as operator
2 and I can't speak to that one. But I know we've had
3 three sealed units as operator of PGP that included this
4 instance here.

5 MR. SWARTZ: You're not going to hear us come in here and say
6 because you did something once you've got to do it
7 forever either. I mean, our expectation coming in was
8 that that would not be an issue. But that doesn't mean
9 it's not something that we can work out.

10 MR. HARRIS: I'm just not sure of the appropriateness of that
11 and the fact that we've done that before. I guess --
12 well, like I said I'll leave it alone.

13 MR. CHAIRMAN: It doesn't mean we have a question.

14 MR. EVANS: Mr. Chairman, I've got one other question. I
15 notice obviously you mine coal in such a manner that
16 arbitrary grid lines placed on a surface map are pretty
17 much irrelevant. But are there any pooled units in any
18 of the other lines that are -- say in Row M, N, O, P, the
19 sealed unit that you've proposed splits a number of
20 units, takes in real small portions of others. Maybe
21 Mr. Fulmer can answer this. Are there producing wells,
22 CEM wells in any of those other units?

23 MR. FULMER: No. Under the order that exists.

24 MR. EVANS: There are orders that exist?

25 MR. FULMER: Yes.

1 MR. SWARTZ: Which may or may not have expired, too.

2 MR. FULMER: One did. The rest of them are still in effect.

3 The S and R rows.

4 MR. SWARTZ: We've testified --

5 MR. EVANS: R and S. I'm aware of what's happened in R and S.

6 MS. RIGGS: He's talking about these units that border, lying

7 outside the sealed gob area.

8 MR. FULMER: No. The only other one was a T which expired.

9 MR. SWARTZ: That's not intersected with this.

10 MR. FULMER: In the general vicinity.

11 MR. EVANS: Let me ask another question then. Mine plans

12 extend east and west of this map. Is there active mining

13 east and west?

14 MR. ARRINGTON: West.

15 MR. MORGAN: To give you some rational for some of these

16 boundaries, the eastern boundary, for instance, that

17 boundary will border the VP-1 gob area.

18 MR. EVANS: That was my question. We're talking about

19 correlative rights here and everything else and that was

20 my question. I see this sealed unit and now I also see

21 Oakwood units being split by this sealed unit. I was

22 going to ask you to expound on the issues of correlative

23 rights of how you handle those correlative rights issue

24 that are in, say, M-5 looking at your map? Unit M-5.

25 Because your sealed unit is going to split that and if

1 one end butts up and you're mining on the other end I
2 understand how that's --

3 MR. MORGAN: There's active mining west of this. There is the
4 VP mine which is inactive but has gob areas which we are
5 studying to the east of it. So there are boundaries
6 along those lines that help form these boundaries also.

7 MR. EVANS: That gives me a little less heartburn.

8 MR. HARRIS: Let me ask another question about sealing then.
9 If we go east of here and seal off another section or two
10 -- I don't know the language. Are these seals still in
11 place and these are just separate areas that are sealed
12 or all these seals removed at all and is there some type
13 of communication between the two sealed areas?

14 MR. SWARTZ: If we go to the east we're in a different mine.

15 MR. MORGAN: No. There's actually a barrier between this --

16 MR. HARRIS: My question was not specific to an area just
17 informational. If we're mining to the west now and we
18 decided we're going to seal another section, is that
19 section ever in communication with this? Are those seals
20 ever punctured or removed?

21 MR. MORGAN: No. They'll never be punctured.

22 MR. EVANS: I'm going to ask a question of our legal counsel
23 here real quick. Can we do something retroactive as far
24 as back --

25 MS. RIGGS: Well, I don't hear any objections to it is the

1 biggest thing. If there were someone here objecting to
2 that --

3 MR. EVANS: We are not constrained by anything in the law?

4 MS. RIGGS: As I understand the application as presented
5 they've been operating under voluntary units under
6 statewide spacing where they have been the -- so the
7 people that would be heard to complain about a retro-
8 active application would be those people whose interest
9 is going to be diluted by spreading it out amongst more
10 people. And I don't hear them here complaining about it.
11 They received notice and there has been no objection
12 made.

13 MR. EVANS: I know they're not here. I just wondered if we
14 can do what their asking as far as there's nothing that
15 constrains us within the Oil & Gas Act itself that
16 says --

17 MS. RIGGS: No. In fact, the Act gives you the ability to
18 modify units that have already been established.

19 MR. EVANS: That's fine.

20 MR. SWARTZ: I sort of see this to respond to your question --
21 and the thing that we're talking about in terms of the
22 recommendation in terms of adopting a policy it's kind of
23 like the situation where somebody forms a voluntary unit
24 and doesn't tell anybody and five years later you find
25 out about it and you're looking and you're thinking, "I

1 should have been in that unit." I think that there are
2 situations where it is appropriate to retroactively
3 effects and this to me -- fortunately we were able to
4 produce this gas. But this needs to be done right and it
5 needs to be retroactive and there is no one here yelling
6 about it either. But even if there were it still needs
7 to be done right. It might be more difficult to do it
8 but --

9 MS. RIGGS: I suspect that what he's referring to is the
10 opinion -- the official opinion that was given by the
11 AG's Office with respect to a question on statewide
12 spacing -- the retroactive application. And I think the
13 end result of that opinion was that statewide spacing
14 never created a unit in the first place.

15 MR. SWARTZ: Right.

16 MS. RIGGS: So the change of the law didn't retroactively go
17 back and amend something that never existed to start
18 with.

19 MR. EVANS: That's fine. I'm just making sure.

20 MR. CHAIRMAN: Do you have anything further, Mr. Swartz?

21 MR. SWARTZ: No, I don't.

22 MR. CHAIRMAN: Any other questions, members of the Board? Do
23 I have a recommendation or a motion?

24 MR. EVANS: Mr. Chairman, I move we grant the petition.

25 MR. CHAIRMAN: A motion to approve.

1 MR. LEWIS: Second.

2 MR. CHAIRMAN: A motion and a second. Further discussion?

3 All in favor signify by saying yes. (ALL AFFIRM.)

4 Opposed say no. (NONE.) We have a unanimous approval.

5 We'll take a five minute break.

6 (AFTER A BRIEF RECESS, THE HEARING CONTINUED AS FOLLOWS:)

1
2
3 ITEM IV

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Equitable Resources Exploration for an order force
6 pooling interests in conventional gas drilling unit
7 identified as V-3193. This is docket number VGOB-
8 94/10/24-0477 that was continued from November. We'd ask
9 the parties that wish to address the Board in this matter
10 to come forward at this time.

11 MR. KAISER: Jim Kaiser on behalf of Equitable Resources
12 Exploration. Our witnesses in this matter will once
13 again be Mr. Heflin and Mr. Dahlin. I'll remind both of
14 them that they've been previously sworn.

15 MR. CHAIRMAN: The record will show there are no other parties
16 wishing to address the Board. You may proceed.

17 GEORGE HEFLIN

18 a witness who, after having been previously sworn, was
19 examined and testified as follows:

20
21 DIRECT EXAMINATION

22
23 BY MR. KAISER:

24 Q. Mr. Heflin, please state your full name for the record,
25 who you are employed by and in what capacity?

1 A. George B. Heflin. I'm employed by Equitable Resources
2 Exploration. I'm a landman, lease acquisitions, pipe-
3 lines.
4 Q. Do your responsibilities include the lands involved here
5 and in the surrounding area?
6 A. Yes.
7 Q. Have you previously been accepted by the Board today as
8 an expert witness in these matters?
9 A. Yes, I have.
10 Q. Are you familiar with Equitable's application for the
11 establishment of a drilling unit and pooling order for
12 EREX well V-3193 dated September 31st, 1994?
13 A. Yes.
14 Q. Is Equitable seeking a permit or have a permit now
15 pending before the DMME?
16 A. Yes, we do. We submitted that on October 18th, 1994.
17 Q. Is Equitable seeking to force pool the drilling rights
18 underlying the drilling and spacing unit as depicted at
19 Exhibit A of the application?
20 A. Correct.
21 Q. Does Equitable own drilling rights in the unit involved
22 here?
23 A. Yes.
24 Q. Does the proposed unit depicted at Exhibit A include all
25 acreage within 2,640 feet of proposed well V-3193?

1 A. Yes.

2 Q. What is the interest of Equitable in the unit?

3 A. We have at this time 95.25 percent of the unit leased.

4 Q. What was the interest in the unit at the time of applica-

5 tion?

6 A. 59.81 percent.

7 Q. Are you familiar with the ownership of drilling rights of

8 parties other than Equitable underlying this unit?

9 A. Yes, I am.

10 Q. And what would those be?

11 A. 4.75 percent.

12 Q. Mr. Heflin, at this time would you please go through the

13 revised Exhibit B for the Board listing any additional

14 leases that have been picked up or any other changes that

15 have taken place since the submission of Exhibit B to the

16 application?

17 A. On tract one we originally had shown Janice and Dallas

18 Meade and also Teresa Meade as having a 50 percent

19 ownership. Teresa Meade had sold her ownership to

20 Janice and Dallas and Janice also had a 50 percent

21 ownership of her own. So we corrected that and we do

22 have leases on both of those. On tract two title

23 information in plotting revealed that the trustees of the

24 Mt. Olive Presbyterian Church -- their interest was

25 smaller than we had originally submitted. We've correct-

1 ed the percentages as they contribute to the unit.
2 Tract three, we have leased that since we first submitted
3 the exhibit to the Board. Also in tract four, we've
4 picked up a lease on that as well. We'd like to dismiss
5 it, too. On tract five, we also had an interest change
6 on it. Tract two, when the interest was changed where
7 the tract was smaller than originally was plotted tract
8 five percentages changed because there was more contribu-
9 ted to the unit.

10 Q. So tract five picked up the interest that was taken off
11 of tract two?

12 A. Yes. Tract six, James and Anna Hall, we have leased that
13 since submitting the first exhibit to the Board. Tract
14 seven also. Tract eight, additional title information
15 revealed that Medford Hall who we had originally shown as
16 tract eight is a surface owner only and the minerals
17 belong to N.S. Bond and Sallie Bond -- they're husband
18 and wife, unknown. Tract nine, we picked up the leases
19 on the entire tract nine from Willis Salyers, Bobby
20 Eugene Salyers, Donald Salyers and Richard Salyers and
21 their spouses since we originally submitted. Tract
22 eleven, we also picked up a lease on that. That's all
23 the changes on the exhibit.

24 Q. So at the time we submitted our application in September
25 of this year we had under lease 59.81 percent of the unit

1 and now with the continuing due diligence efforts of your
2 land agents and the land department we now have at the
3 time of hearing under lease 95.25 percent of the unit, is
4 that correct?

5 A. That's correct.

6 Q. Mr. Heflin, are all the unleased parties set out at
7 revised Exhibit B?

8 A. Yes, they are.

9 Q. Prior to filing that application you've testified
10 obviously that efforts were made to contact each of the
11 respondents and an attempt made to work out an agreement
12 regarding the development of the unit involved?

13 A. That's right.

14 Q. Were any efforts made to determine if the individual
15 respondents were living or deceased or their whereabouts
16 and if deceased, were efforts made to determine the
17 names and addresses and whereabouts of the successors to
18 any deceased individual respondents?

19 A. Yes.

20 Q. In your opinion were reasonable and diligent efforts made
21 and sources checked to identify and locate unknown
22 heirs, to include primary sources such as deed records,
23 probate records, assessors records, treasurers records
24 and in addition secondary sources such as telephone
25 directories, city directories, family and friends?

1 A. Yes.

2 Q. In your professional opinion was due diligence exercised

3 to locate each of the respondents named herein?

4 A. Yes.

5 Q. Are the addresses set out in revised Exhibit B to the

6 application the last known addresses for the respondents?

7 A. Yes.

8 Q. With the exception of those parties which you have hereby

9 dismissed from this proceeding are you requesting this

10 Board to force pool all other unleased interests listed

11 in revised Exhibit B?

12 A. That's correct.

13 Q. Does Equitable seek to force pool the drilling rights of

14 each individual respondent if living and if deceased, the

15 unknown successor or successors to any deceased individ-

16 ual respondent?

17 A. Yes.

18 Q. Is Equitable seeking to force pool the drilling rights of

19 the person designated as trustee if acting in the

20 capacity of trustee and if not acting in such capacity is

21 Equitable seeking to force pool the drilling rights of

22 the successor of such trustee?

23 A. Yes. We are.

24 Q. Are you familiar with the fair market value of the

25 drilling rights in the unit here and in the surrounding

1 area?

2 A. Yes, I am.

3 Q. Could you please advise the Board as to what those are?

4 A. \$5 per acre consideration with a five year term and one-

5 eighth royalty.

6 Q. Did you gain your familiarity by acquiring oil and gas

7 leases and other agreements involving the transfer of

8 drilling rights in the unit involved here and in the

9 surrounding area?

10 A. Yes.

11 Q. In your opinion do the terms you have testified to

12 represent the fair market value of and the fair and

13 reasonable compensation to be paid for drilling rights

14 within this unit?

15 A. Yes.

16 MR. KAISER: Mr. Chairman and members of the Board, at this

17 time I would ask the Board to allow us to incorporate the

18 testimony that was elicited from Mr. Heflin in VGOB-

19 94/07/19-0459 which was a force pooling of well 2824

20 regarding elections and participation rights and escrow.

21 MR. CHAIRMAN: That's fine. That will be incorporated.

22 Q. (Mr. Kaiser continues.) Mr. Heflin, who should be named

23 the operator under the force pooling order?

24 A. Equitable Resources Exploration.

25 MR. KAISER: I have no further questions of this witness at

1 this time, Mr. Chairman.

2 MR. CHAIRMAN: Any questions, members of the Board, of this
3 witness?

4 (Witness stands aside.)

5 MR. CHAIRMAN: Call your next witness.

6
7 ROBERT A. DAHLIN, II

8 a witness who, after having been previously sworn, was
9 examined and testified as follows:

10
11 DIRECT EXAMINATION

12
13 BY MR. KAISER:

14 Q. Mr. Dahlin, I'll again remind you that you've previously
15 been sworn. Mr. Dahlin, could you please state your name
16 for the record, who you're employed by and in what
17 capacity?

18 A. My name is Robert A. Dahlin, II. I'm employed by EREX as
19 an production specialist.

20 Q. Have you previously testified before the Virginia Gas &
21 Oil Board and have your qualifications as an expert
22 witness previously been accepted by the Board?

23 A. Yes, sir.

24 Q. Do your responsibilities include the lands involved here
25 and in the surrounding area?

1 A. Yes, sir, they do.

2 Q. Are you familiar with the proposed exploration and

3 development of the unit involved here under the appli-

4 cant's proposed plan of development?

5 A. Yes, sir.

6 Q. Could you state for the Board, please, the total depth of

7 the proposed initial well under the applicant's plan of

8 development?

9 A. 5,140 feet.

10 Q. Will this be consistent to include all formations listed

11 in the well work permit?

12 A. Yes, it will.

13 Q. And will this be sufficient to penetrate and test the

14 common sources of supply in subject formations?

15 A. Yes, sir.

16 Q. Is the applicant requesting the force pooling of conven-

17 tional gas reserves not only to include the designated

18 formations but any other formations excluding coal

19 formations which may be between those formations design-

20 ated from the surface to the total depth drilled?

21 A. Yes, we are.

22 Q. Will this initial well be at a legal location?

23 A. It is.

24 Q. What are the estimated reserves of the unit?

25 A. 400 million cubic foot of gas.

1 Q. Are you familiar with the well costs for the proposed
2 initial unit well under the applicant's plan of develop-
3 ment?
4 A. Yes, I am.
5 Q. Have an AFE been reviewed, signed and submitted to the
6 Board?
7 A. It has.
8 Q. Was this AFE prepared by an engineering department
9 knowledge in the preparation of AFEs and knowledgeable in
10 regard to well costs in this area?
11 A. Yes.
12 Q. Does the AFE represent a reasonable estimate of the well
13 costs for the proposed unit well under applicant's plan
14 of development?
15 A. Yes, it does.
16 Q. Would you please state both the dry hole costs and
17 completed well costs for the Board?
18 A. Dry hole costs are \$132,350 with completed well costs
19 \$267,250.
20 Q. Do these costs in the AFE anticipate a multiple comple-
21 tion?
22 A. Yes, it does.
23 Q. Does the AFE include a reasonable charge for supervision?
24 A. Yes, it does.
25 Q. Mr. Dahlin, in your professional opinion will the

1 granting of this application be in the best interest of
2 conservation, prevention of waste and the protection of
3 correlative rights?

4 A. Yes, sir.

5 MR. KAISER: I have no further questions of this witness at
6 this time, Mr. Chairman.

7 MR. CHAIRMAN: Questions, members of the Board?

8 (Witness stands aside.)

9 MR. CHAIRMAN: Do you have anything further?

10 MR. KAISER: Nothing further at this time.

11 MR. LEWIS: I make a motion to grant the application.

12 MR. HARRIS: Second.

13 MR. CHAIRMAN: Motion and a second. Any further discussion?

14 All in favor signify by saying yes. (ALL AFFIRM.)

15 Opposed say no. (NONE.) It's a unanimous approval.
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3 ITEM V

4 MR. CHAIRMAN: The next item on the agenda is a petition from
5 Equitable Resources Exploration for an order pooling
6 interests in coalbed gas drilling unit identified as VC-
7 3321. This is docket number VGOB-94/11/15-0484. We'd
8 ask the parties that wish to address the Board in this
9 matter to come forward at this time.

10 MR. KAISER: Mr. Chairman and members of the Board, Jim Kaiser
11 on behalf of Equitable Resources Exploration. Our
12 witnesses in this matter will once again be Mr. Heflin
13 and Mr. Dahlin.

14 MR. CHAIRMAN: The record will show there are no other
15 parties. You may proceed.

16 GEORGE HEFLIN

17 a witness who, after having been previously sworn, was
18 examined and testified as follows:

19
20 DIRECT EXAMINATION

21
22 BY MR. KAISER:

23 Q. Mr. Heflin, please state your full name for the record,
24 who you are employed by and in what capacity?

25 A. George B. Heflin. I'm employed by Equitable Resources

1 Exploration. I'm a landman, lease acquisitions and
2 pipelines.
3 Q. Do your responsibilities include the lands involved here
4 and in the surrounding area?
5 A. Yes.
6 Q. Are you familiar with Equitable's application for the
7 establishment of a drilling unit and pooling order for
8 EREX well VC-3221 dated October 13th, 1994?
9 A. Yes, I am.
10 Q. Is this well in the Roaring Fork field subject to the
11 Roaring Fork field rules promulgated May 31st, 1994 and
12 an effective date of April 19th, 1994?
13 A. Yes.
14 Q. Has Equitable applied for a permit and is a permit now
15 pending before the DMME?
16 A. Yes, it is. That was submitted October 6th, 1994.
17 Q. Is Equitable seeking to force pool the drilling rights
18 underlying the drilling and spacing unit as depicted at
19 Exhibit A of the application?
20 A. Yes, we are.
21 Q. Does Equitable own drilling rights in the unit involved
22 here?
23 A. Yes.
24 Q. What is the interest of Equitable in the unit?
25 A. 99.95 percent.

1 Q. Are you familiar with the ownership of drilling rights of
2 the parties other than Equitable underlying this unit?
3 A. Yes, I am.
4 Q. What was the percent of the coal estate under lease?
5 A. Coal estate is 100 percent.
6 MR. KAISER: Mr. Chairman and members of the Board, there's no
7 revisions to this exhibit other than the fact that what
8 I'm going to give you now lists the VGOB docket number
9 and the one we had submitted with the application did
10 not. So we're trying to be consistent.
11 MR. CHAIRMAN: All right.
12 MR. KAISER: But there's no changes in the lease status or
13 ownership status, name status.
14 Q. (Mr. Kaiser continues.) Mr. Heflin, are all the unleased
15 parties set out in Exhibit B?
16 A. Yes, they are.
17 Q. Prior to filing that application were efforts made to
18 contact each of the respondents and an attempt made to
19 work out an agreement regarding the development of the
20 unit involved?
21 A. Correct.
22 Q. Subsequent to the filing of the application have you
23 continued to attempt to reach an agreement with the
24 respondents listed at Exhibit B?
25 A. Yes, we have.

1 Q. And as a result of those efforts you have not acquired
2 any additional leases. There is just one interest that
3 is currently unleased within the entire unit which
4 represents .05 percent of the unit, is that correct?

5 A. That's right.

6 Q. Were any efforts made to determine if the individual
7 respondents were living or deceased or their whereabouts
8 and if deceased, were efforts made to determine the
9 names and addresses and whereabouts of the successors to
10 any deceased individual respondents?

11 A. Yes.

12 Q. Were reasonable and diligent efforts made and sources
13 checked to identify and locate unknown heirs, to include
14 primary sources such as deed records, probate records,
15 assessors records, treasurers records and in addition
16 secondary sources checked such as telephone directories,
17 city directories, family and friends?

18 A. Yes.

19 Q. In your professional opinion was due diligence exercised
20 to locate each of the respondents named herein?

21 A. Yes.

22 Q. Are the addresses set out in Exhibit B to the application
23 the last known addresses for the respondents?

24 A. Yes.

25 Q. With the exception of those parties which you are hereby

1 dismissed from this proceeding are you requesting this
2 Board to force pool all other unleased interests listed
3 in Exhibit B?

4 A. Yes.

5 Q. Does Equitable seek to force pool the drilling rights of
6 each individual respondent if living and if deceased, the
7 unknown successor or successors to any deceased individ-
8 ual respondent?

9 A. Yes, we do.

10 Q. Is Equitable seeking to force pool the drilling rights of
11 the person designated as trustee if acting in the
12 capacity of trustee and if not acting in such capacity is
13 Equitable seeking to force pool the drilling rights of
14 the successor of such trustee?

15 A. Yes.

16 Q. Are you familiar with the fair market value of the
17 drilling rights in the unit here and in the surrounding
18 area?

19 A. Yes, I am.

20 Q. Could you again please advise the Board as to what those
21 are?

22 A. \$5 per acre consideration, a five year term and one-
23 eighth royalty.

24 Q. Did you gain your familiarity by acquiring oil and gas
25 leases, coalbed methane leases and other agreements

1 involving the transfer of drilling rights in the unit
2 involved here and in the surrounding area?

3 A. Yes.

4 Q. In your opinion do the terms you have testified to
5 represent the fair market value of and the fair and
6 reasonable compensation to be paid for drilling rights
7 within this unit?

8 A. That's correct.

9 MR. KAISER: Mr. Chairman, once again I'd ask that the
10 testimony elicited from Mr. Heflin in two previous force
11 poolings today regarding the elections options and
12 participation requirements and regulations and escrow
13 requirements be incorporated.

14 MR. CHAIRMAN: Granted.

15 Q. (Mr. Kaiser continues.) Mr. Heflin, who should be named
16 the operator under the force pooling order?

17 A. Equitable Resources Exploration.

18 MR. KAISER: I have no further questions of this witness at
19 this time, Mr. Chairman.

20 MR. CHAIRMAN: Questions, members of the Board.

21 (Witness stands aside.)

22 MR. CHAIRMAN: Call your next witness.

23 MR. KAISER: I want to clear this up. We had trouble with the
24 Bristol Herald Courier this time as far as getting back
25 our affidavits of publication. I think we sent you all

1 copy on this well but I'm not sure. So I've got an
2 original if you need it. You've got it?

3 MR. CHAIRMAN: Yes.

4 MR. KAISER: Okay. Our next witness will be Mr. Dahlin.

5
6 ROBERT A. DAHLIN, II

7 a witness who, after having been previously sworn, was
8 examined and testified as follows:

9
10 DIRECT EXAMINATION

11
12 BY MR. KAISER:

13 Q. Could you please state your name for the record, who
14 you're employed by and in what capacity?

15 A. My name is Robert A. Dahlin, II. I'm employed by SREX as
16 an a production specialist.

17 Q. And have you previously testified before the Virginia Gas
18 & Oil Board and have your qualifications as an expert
19 witness previously been accepted by the Board?

20 A. Yes, sir.

21 Q. Do your responsibilities include the lands involved here
22 and in the surrounding area?

23 A. They do.

24 Q. Are you familiar with the proposed exploration and
25 development of the unit involved here under the appli-

1 cant's proposed plan of development?

2 A. Yes, sir, I am.

3 Q. What is the total depth of the proposed initial well
4 under the applicant's plan of development?

5 A. 2,340 feet.

6 Q. Will this be consistent to include the formations
7 consistent with the well work permit which is now
8 pending before the DMME submitted October 6th, 1994?

9 A. Yes, it would.

10 Q. And will this be sufficient to penetrate and test the
11 common sources of supply in the subject formations?

12 A. Yes.

13 Q. What are the estimated reserves of the unit?

14 A. 350 million cubic feet.

15 Q. Are you familiar with the well costs for the proposed
16 initial unit well under the applicant's plan of develop-
17 ment?

18 A. Yes, I am.

19 Q. Has an AFE been reviewed, signed and submitted to the
20 Board?

21 A. Yes, it has.

22 Q. Was this AFE prepared by an engineering department
23 knowledge in the preparation of AFEs and knowledgeable in
24 regard to well costs in this area?

25 A. It was.

1 Q. Does the AFE represent a reasonable estimate of the well
2 costs for the proposed unit well under applicant's plan
3 of development?
4 A. Yes, it does.
5 Q. Could you please state both the dry hole costs and
6 completed well costs for the Board?
7 A. Dry hole costs are \$69,363 with completed well costs
8 \$181,000.
9 Q. Do these costs in the AFE anticipate a multiple comple-
10 tion?
11 A. Yes, it does.
12 Q. Does the AFE include a reasonable charge for supervision?
13 A. Yes, it does.
14 Q. In your professional opinion will the granting of this
15 application be in the best interest of conservation,
16 prevention of waste and the protection of correlative
17 rights?
18 A. Yes, sir.
19 MR. KAISER: I have no further questions of this witness at
20 this time. Mr. Chairman.
21 MR. CHAIRMAN: Questions, members of the Board?
22 MR. HARRIS: This is for Bob Dahlin. The well plot shows --
23 is this two wells up here, V-2665?
24 THE WITNESS: Yes, sir. That's a conventional well. This is
25 a twin location on the same location we drilled for coal

1 MR. CHAIRMAN: When you twin a well like that what do you do
2 to safeguard penetration into the well adjoining or
3 adjacent to it?

4 THE WITNESS: We have some language, I believe, and we've left
5 that with Mr. Fulmer regarding the deviation existing in
6 the new well. Also in the selection of the site we used
7 the known structure and the well path of the existing
8 well in order to locate the second well so as it would
9 have to increase the angle of deviation over that of an
10 existing well in order to intersect it.

11 MR. HARRIS: How close are these then physically?

12 THE WITNESS: I think this one is between 50 and 70 feet, I
13 believe. I don't have that measurement. We typically
14 have those on here, but I didn't notice it was gone.
15 It's very close.

16 MR. HARRIS: Now, we do have some regulation as to how close
17 these -- I'm sure there is a minimum, isn't there?

18 MR. FULMER: What?

19 MR. HARRIS: Like spacing between these.

20 MR. FULMER: No, no. There's no minimum.

21 MS. RIGGS: The spacing requirement you're probably thinking
22 of would be two wells producing from the same formations
23 But since these go to different pools those spacing
24 requirements wouldn't apply.

25 MR. HARRIS: Okay.

1 MR. CHAIRMAN: You just have to make sure and that's why I
2 asked him about the integrity of both wells are protected
3 and he needs to insure that's in his application. Mr.
4 Chairman, any other questions, members of the Board?

5 (Witness stands aside.)

6 MR. CHAIRMAN: Do you have anything further?

7 MR. KAISER: Nothing further at this time.

8 MR. KELLY: Mr. Chairman, I move that the application be
9 approved.

10 MR. EVANS: Second.

11 MR. CHAIRMAN: A motion and a second. Further discussion?

12 All in favor signify by saying yes. (ALL AFFIRM.)

13 Opposed say no. (NONE.) It's a unanimous approval.
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ITEM VII

MR. CHAIRMAN: We'll go to Item VII on the agenda. The next item is a petition from Equitable Resources Exploration for an order pooling interests in a conventional gas drilling unit identified as V-2715. This is docket number VGOB-94/12/13-0486. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MR. KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable Resources Exploration. Our witnesses will once again be Mr. Heflin and Mr. Dahlin. I think what I'm going to do before we start, if I could, is get all the various Exhibit Bs in front of you. This is a modification of a previous pooling and what I want to do to adequately clarify and explain to you what we've done is give you a copy of the Exhibit B that was recorded with the original order when the force pooling was done for the creation of this unit in August and then you'll be able to use that to check against the revised exhibit that we'll also be submitting today. I think that will help facilitate your understanding of what we're modifying.

MR. CHAIRMAN: Okay.

MR. KAISER: So before we get started I'll give all that stuff out.

1 MS. RIGGS: We have the original pooling order which has the
2 Exhibit B.

3 MR. KAISER: I just didn't know what all you got in the package
4 or not. It was just in case. I know it's more paper.
5 (Pause.)
6

7 GEORGE HEFLIN

8 a witness who, after having been previously sworn, was
9 examined and testified as follows:
10

11 DIRECT EXAMINATION

12
13 BY MR. KAISER:

14 Q. Mr. Heflin, would you please state your full name for the
15 record, who you are employed by and in what capacity?

16 A. George B. Heflin. Equitable Resources Exploration. I'm
17 landman, lease acquisitions and pipelines.

18 Q. Do your responsibilities include the lands involved here
19 and in the surrounding area?

20 A. Yes, they do.

21 Q. Are you familiar with Equitable's application for the
22 modification of a prior order issued by the Board on
23 September 16th, 1994 and recorded in deed book 787, page
24 263 of the Wise County Circuit Court Clerk's Office?

25 A. Yes, I am.

1 Q. Is Equitable seeking to force pool the drilling rights
2 underlying the drilling and spacing unit as depicted at
3 Exhibit A of this application?
4 A. Yes, we are.
5 Q. Does Equitable own drilling rights in the unit involved
6 here?
7 A. Yes.
8 Q. Does the proposed unit depicted at Exhibit A include all
9 acreage within 2,640 feet of proposed well V-2715?
10 A. Yes, it does.
11 Q. What was the interest of Equitable in the unit at the
12 time of this application or at the time of the prior
13 order and what is the interest of Equitable in the unit
14 now?
15 A. Our interest now is 89.647585 percent. The previous
16 application was 89.19 percent.
17 Q. The interest now rounded off would be 89.65 percent?
18 A. Exactly.
19 Q. And the unleased interest at this time?
20 A. Is 10.35 rounded off. 10.352415.
21 Q. At this time, if we could, let's direct the Board both to
22 the Exhibit B that was recorded with the original order
23 and our revised Exhibit B and go through and explain on a
24 tract by tract basis what interest we are modifying here
25 today?

1 A. On tract nine we picked up a lease.

2 Q. I believe that's the only additional lease that's been
3 picked up since the original order, correct?

4 A. Yes. That's correct. We leased Dorwood Gibson and his
5 wife.

6 Q. And the next modification, I believe, it to tract eleven?

7 A. That's correct. Subsequent title information -- origin-
8 ally we had shown VICC as a one-eighth owner. The title
9 information returned showing the Sullivans as owning 50
10 percent ownership in eight-eighths.

11 Q. So we've deleted the VICC as one-eighth interest in that
12 tract in accordance with subsequent title records?

13 A. That's correct.

14 Q. I think the next tract that we modified is the interest
15 in tract fourteen?

16 A. That was also -- with subsequent title information it was
17 determined that VICC did not own an interest in the
18 tract. Therefore, Calhoun Page had eight-eighths of the
19 tract.

20 Q. And the next tract that we're modifying is tract seven-
21 teen?

22 A. Through our title information we discovered that VICC did
23 not own 100 percent in that tract and that they ended up
24 owned a one-eighth of the tract and the H.R. Edwards
25 heirs at this particular time unknown own seven-eighths

1 interest.

2 Q. And there's no additional modifications, is that correct?

3 A. That's correct.

4 MR. KAISER: Are there any questions on those modifications

5 before we move on, Mr. Chairman?

6 MR. CHAIRMAN: Any questions, members of the Board?

7 Q. (Mr. Kaiser continues.) Mr. Heflin, prior to filing the

8 application for modification were efforts made to

9 contact each of the respondents and an attempt made to

10 work out an agreement regarding the development of the

11 unit involved?

12 A. Yes, there was.

13 Q. Subsequent to the filing of the application have you

14 continued to attempt to reach an agreement with the

15 respondents listed at revised Exhibit B?

16 A. Yes, we are.

17 Q. And I think you've testified earlier that as a result of

18 those efforts you have acquired the additional lease?

19 A. Yes.

20 Q. And that was on Dorwood Gibson?

21 A. That's correct.

22 Q. Were any efforts made to determine if the individual

23 respondents were living or deceased or their whereabouts

24 and if deceased, were efforts made to determine the

25 names and addresses and whereabouts of the successors to

- 1 any deceased individual respondents?
- 2 A. Yes.
- 3 Q. Were reasonable and diligent efforts made and sources
- 4 checked to identify and locate any unknown heirs, to
- 5 include primary sources such as deed records, probate
- 6 records, assessors records, treasurers records and in
- 7 addition secondary sources checked such as telephone
- 8 directories, city directories, family and friends?
- 9 A. That's correct.
- 10 Q. In your professional opinion was due diligence exercised
- 11 to locate each of the respondents named herein?
- 12 A. Yes.
- 13 Q. Are the addresses set out in revised Exhibit B to the
- 14 application the last known addresses for the respondents?
- 15 A. Yes.
- 16 Q. With the exception of those parties which you are hereby
- 17 dismissed from this proceeding are you requesting this
- 18 Board to force pool all other unleased interests listed
- 19 in revised Exhibit B?
- 20 A. Yes, we are.
- 21 Q. Does Equitable seek to force pool the drilling rights of
- 22 each individual respondent if living and if deceased, the
- 23 unknown successor or successors to any deceased individ-
- 24 ual respondent?
- 25 A. That's correct.

1 Q. Is Equitable seeking to force pool the drilling rights of
2 the person designated as trustee if acting in the
3 capacity of trustee and if not acting in such capacity
4 Equitable seeking to force pool the drilling rights of
5 the successor of such trustee?

6 A. Yes.

7 Q. Mr. Heilin, are you familiar with the fair market value
8 of the drilling rights in the unit here and in the
9 surrounding area?

10 A. Yes, I am.

11 Q. Could you advise the Board as to what those are?

12 A. It's a \$5 per acre consideration, a five year term with
13 one-eighth royalty.

14 Q. Did you gain your familiarity by acquiring oil and gas
15 leases and other agreements involving the transfer of
16 drilling rights in the unit involved here and in the
17 surrounding area?

18 A. Yes.

19 Q. In your opinion do the terms you have testified to
20 represent the fair market value of and the fair and
21 reasonable compensation to be paid for drilling rights
22 within this unit?

23 A. Yes.

24 MR. KAISER: Mr. Chairman, at this time we'd ask once again
25 to incorporate the previous testimony as to election

1 options, participation and escrow.

2 MR. CHAIRMAN: Okay. It will be incorporated.

3 Q. (Mr. Kaiser continues.) Mr. Heflin, who should be named

4 the operator under the force pooling order?

5 A. Equitable Resources Exploration.

6 MR. KAISER: I have no further questions of this witness at

7 this time, Mr. Chairman.

8 MR. CHAIRMAN: Let me just ask a question on the well location

9 map, of course, two maps, one from the last hearing and

10 one for this hearing. I'm showing that the one that was

11 recorded at book 787, Page 272, did not -- I guess the

12 only difference I see and I'm asking for clarification is

13 that the tracts were omitted from one that was actually

14 recorded. We one that we had at the hearing in August

15 had the tract numbers typed on them in addition. Is

16 there any change in that?

17 THE WITNESS: That's the only thing that would have been

18 changed on it. On the plat we tried to put the tracts

19 and match our Exhibit B.

20 MR. CHAIRMAN: Right, but none of the changes that you

21 discussed in Exhibit B would have changed your plat map,

22 would it, in any way?

23 THE WITNESS: No, sir.

24 MR. CHAIRMAN: Any questions, members of the Board?

25 MS. RIGGS: Is that to say then when we do the order if this

1 is approved that we would use the plat with the tract
2 numbers inserted?

3 MR. KAISER: Mr. Chairman, members of the Board, we do have
4 revision to the plat and we did not bring a revised plat
5 at this time. I would be glad to get copies of those to
6 you today upon leaving here. The change is, if you'll
7 pull out your plats and look up in the -- I'll call it a
8 2:00 roughly on the plat. You'll see it should be an I.
9 It's a very small tract. It's in the southeast corner of
10 H. That should actually be tract nine and then tract
11 what is L which is right beside S should be tract twelve.
12 There is a misidentification due to the look alike I and
13 L, essentially a clerical error. But we will provide you
14 with a corrected plat.

15 MR. HARRIS: Excuse me. Could you repeat the correction?

16 MR. KAISER: Yes. On what was identified as tract twelve
17 should be tract nine and what was identified as tract
18 nine should be tract twelve.

19 MR. HARRIS: There's a tract twelve above that, though.

20 MR. HEFLIN: Right. Those two are -- the tracts are related
21 to one another. They're under the same ownership.

22 MR. HARRIS: Shouldn't it be like 12-A and 12-B or something?

23 MR. HEFLIN: You can just put a land hook in it. We didn't
24 distinguish between 12-A and 12-B because the ownership
25 being one and the same. The only difference there would

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Q. Mr. Dahlin, could you please state your name and who you're employed by and in what capacity?

BY MR. KAISER:

A. My name is Robert A. Dahlin, II and I'm employed by GREX as an a production specialist.

A. Yes, sir.

A. Yes, sir.

 $\bar{A}_n = 25.$

A. 6,120 feet.

1 Q. Will this be consistent with the formations listed in the
2 well work permit which is now pending before the DMME?
3 A. Yes, it will.
4 Q. And will this be sufficient to penetrate and test the
5 common sources of supply in the subject formations?
6 A. Yes, sir.
7 Q. Is the applicant requesting the force pooling of conven-
8 tional gas reserves not only to include the designated
9 formations but any other formations excluding coal
10 formations which may be between those formations design-
11 ated from the surface to the total depth drilled?
12 A. Yes, sir.
13 Q. Will the initial well be at a legal location?
14 A. It will.
15 Q. What are the estimated reserves of the unit?
16 A. 400 million cubic feet.
17 Q. Are you familiar with the well costs for the proposed
18 initial well under the applicant's plan of development?
19 A. Yes.
20 Q. Has an AFE been reviewed, signed and submitted to the
21 Board?
22 A. Yes.
23 Q. Was this AFE prepared by an engineering department
24 knowledgeable in the preparation of AFEs and knowledgeable in
25 regard to well costs in this area?

1 A. Yes, it was.

2 Q. Does the AFE represent a reasonable estimate of the well

3 costs for the proposed unit well under applicant's plan

4 of development?

5 A. Yes, it does.

6 Q. State, please, both the dry hole costs and completed well

7 costs for the Board?

8 A. Dry hole costs are \$158,450 with completed well costs

9 \$260,750.

10 Q. Do these costs you have just quoted anticipate a multiple

11 completion?

12 A. Yes.

13 Q. Does the AFE include a reasonable charge for supervision

14 A. Yes, sir.

15 Q. In your professional opinion will the granting of this

16 application be in the best interest of conservation,

17 prevention of waste and the protection of correlative

18 rights?

19 A. Yes, sir.

20 MR. KAISER: I have no further questions of this witness at

21 this time. Mr. Chairman, if I might just add, what this

22 modification basically represents is some additional

23 interpretation of some deeds to VICC involving these

24 lands where they had a one-eighth undivided interest in

25 several tracts that comprised roughly 80 acres and their

1 interpretation was that that gave them 100 percent in the
2 acres where our interpretation was different. Basically
3 other than that there's no real modification to the
4 original order.

5 MR. CHAIRMAN: Is this well in an area with a field rule?

6 MR. DAHLIN: Do you mean do field rules apply to this well?

7 MR. CHAIRMAN: Yeah.

8 MR. DAHLIN: No.

9 MR. CHAIRMAN: Okay. Any other questions, members of the
10 Board?

11 MR. EVANS: The AFE has not changed?

12 MR. DAHLIN: No.

13 MR. EVANS: So in other words there was no change from the
14 initial pooling?

15 MR. DAHLIN: No.

16 MR. EVANS: Those costs are still --

17 MR. DAHLIN: Uh-huh.

18 MR. KAISER: That would have been an AFE that was prepared. I
19 guess. In August.

20 MR. CHAIRMAN: Any other questions?

21 (Witness stands aside.)

22 MR. EVANS: Mr. Chairman, I move that we grant the petition.

23 MR. LEWIS: I second it.

24 MR. CHAIRMAN: A motion and a second. Further discussion?

25 All in favor signify by saying yes. (ALL AFFIRM.)

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Opposed say no. (NONE.) It's a unanimous approval.

1 ITEM IX

2
3 MR. CHAIRMAN: The next item on the agenda is Item IX. We've
4 continued Item VIII. It is a petition from Equitable
5 Resources Exploration for a well location exception for
6 proposed well VC-3177. This is docket number VGOB-
7 94/12/13-0488. We'd ask the parties that wish to address
8 the Board in this matter to come forward at this time.

9 MR. KAISER: Mr. Chairman, members of the Board, Jim Kaiser on
10 behalf of Equitable Resources Exploration. Our witnesses
11 in this matter will be Mr. Don Hall who will need to be
12 sworn and Mr. Bob Dahlin.

13 COURT REPORTER: (Swears witness.)

14 MR. CHAIRMAN: The record will show there are no other parties
15 that wish to address the Board in this matter. You may
16 proceed.

17
18 DON HALL

19 a witness who, after having been duly sworn, was examined and
20 testified as follows:

21
22 DIRECT EXAMINATION

23
24 BY MR. KAISER:

25 Q. Mr. Hall, could you please state your full name for the

1 record, who you are employed by and in what capacity?

2 A. Don Hall. I'm employed with Equitable Resources Explor-

3 ation as district landman.

4 Q. And have your qualifications previously been accepted as

5 an expert witness by this Board?

6 A. Yes, they have.

7 Q. Do your responsibilities include the lands involved here

8 and in the surrounding area?

9 A. Yes, sir.

10 Q. Are you familiar with Equitable's application for a

11 location exception for well VC-3177 and the relief

12 requested?

13 A. Yes, I am.

14 Q. Have all interested parties been notified as required by

15 Section 4B of the Virginia Gas & Oil Board regulations?

16 A. Yes, they have.

17 Q. At this time would you indicate for the Board the

18 ownership of the oil and gas underlying well VC-3177?

19 A. Pine Mountain Oil & Gas owns 100 percent.

20 Q. Does Equitable Resources have an oil and gas lease

21 covering all these tracts?

22 A. Yes, they do.

23 Q. Does Equitable Resources Exploration have the right to

24 operate the reciprocal wells?

25 A. Yes.

- 1 Q. Mr. Hall, have you personally inspected this site?
- 2 A. Yes, I have.
- 3 Q. Based upon your personal inspection of the proposed site
- 4 for which is the location we're seeking the exception on
- 5 could you elaborate for the Board in using the exhibits
- 6 you have prepared why this location exception is necess-
- 7 ary?
- 8 A. In you'll look at your exhibit, the area shaded in green
- 9 in the interior window in which a legal location of this
- 10 unit could be placed. All the terrain in the area, the
- 11 topography in the area of the interior unit averages
- 12 somewhere between 55 to 60 percent slope. In the lower
- 13 right-hand corner that area looks a little flatter than
- 14 the rest of it, but that area is rimmed by rock ledges,
- 15 rock cliffs all around it. It's just really too steep to
- 16 get anything within that unit -- within that interior
- 17 grid.
- 18 Q. What about if you move down to the southwest there? Have
- 19 you got some problems with some houses?
- 20 A. In the southwest there is a house right on the interior
- 21 grid line if you can see it. It's a little black square
- 22 there. A 200 foot radius in that area around that well
- 23 would exclude a portion of that even though it is still
- 24 real steep.
- 25 Q. It's still very steep?

1 A. It's still very steep there. And then on the midwestern
2 portion of the green grid there's several other houses
3 there, about two or three, that would also have a 200
4 foot radius set back. Again, those areas are too steep
5 anyway.

6 Q. Are there any correlative rights issues?

7 A. We have the property and all the adjoining grids under
8 lease from either Pine Mountain or individuals.

9 MR. KAISER: No further questions of this witness at this
10 time, Mr. Chairman.

11 MR. CHAIRMAN: Any questions, members of the Board?

12 MR. KAISER: I do have one further question.

13 Q. (Mr. Kaiser continues.) How far are we outside the
14 window?

15 A. We're 66.86 feet.

16 MR. KAISER: Thank you. I have no further questions of this
17 witness at this time, Mr. Chairman.

18 MR. CHAIRMAN: Any questions, members of the Board?

19 MR. EVANS: How far above -- what is it, Dog Branch. How far
20 above the stream course are you with this location?

21 THE WITNESS: Let me get the permit application and I can
22 tell you more accurately. The location is probably about
23 135 feet of the stream bed.

24 MR. EVANS: That's horizontal distance?

25 THE WITNESS: Yes.

1 MR. EVANS: How about vertical distance, do you know?

2 THE WITNESS: Not really, no. Probably 150.

3 MR. EVANS: 150 feet up?

4 THE WITNESS: Oh, no, not that far. You're saying --

5 MR. EVANS: The stream level is here, the well pad.

6 THE WITNESS: 25 feet probably.

7 MR. EVANS: You don't anticipate major disturbance to that
8 stream bed from --

9 THE WITNESS: No. On the permit application we have a stream
10 crossing planned for the road but we'll be putting that
11 in with culverts and so forth.

12 MR. EVANS: The pad itself is far enough from the stream
13 course as to not present a problem?

14 THE WITNESS: Right.

15 MR. CHAIRMAN: Other questions? Do you have anything further?

16 MR. KAISER: Not of this witness. We do have another witness
17 (Witness stands aside.)

18
19
20
21 ROBERT A. DAHLIN. II

22 a witness who, after having been previously sworn, was
23 examined and testified as follows:
24
25

DIRECT EXAMINATION

BY MR. KAISER:

Q. Mr. Dahlin, could you please state who you're employed by and in what capacity?

A. I'm employed by EREX as an a production specialist.

Q. Are you familiar with the application for a location exception filed by EREX for well VC-3177?

A. Yes, sir.

Q. In the event this location exception is not granted would you project the estimated loss of reserves that would result in waste?

A. Approximately 350 million cubic feet.

Q. What is the total depth of the proposed initial well under the applicant's plan of development?

A. 1,455 feet.

Q. Will this include the formations consistent with the well work permit which is now pending before the DMME?

A. Yes.

Q. And will this be sufficient to penetrate and test the common sources of supply in the subject formations?

A. Yes.

Q. In your opinion, Mr. Dahlin, will the granting of this location exception be in the best interest of preventing waste, the protection of correlative rights and maximiz-

ITEM X

1
2
3 MR. CHAIRMAN: The last item on today's agenda is a petition
4 from Equitable Resources Exploration for an order pooling
5 interests in a conventional gas drilling unit identified
6 as V-3121. This is docket number VGOB-94/12/13-0489.
7 We'd ask the parties that wish to address the Board in
8 this matter to come forward at this time.

9 MR. KAISER: Jim Kaiser on behalf of Equitable Resources
10 Exploration. Our witnesses in this matter will be Mr.
11 Dahlin again and back to Mr. Heflin on some land issues.

12 MR. CHAIRMAN: The record will show there are no other parties
13 wishing to address the Board.

14 MR. EVANS: Mr. Chairman, before we get started I have an
15 administrative question to ask. Did EREX, per chance,
16 punch these holes? Ha, ha.

17 MR. KAISER: No. Actually I think it was Hunter, Smith &
18 Davis. I have a new legal assistant.

19 MR. EVANS: Your three hole binders are a whole lot different
20 than ours.

21 MR. KAISER: I'm going to hand out the revised Exhibit B.
22 Once again, the only difference is the one submitted with
23 the application -- we actually have the docket number on
24 this one. (Pause.)
25

1 GEORGE HEFLIN

2 a witness who, after having been previously sworn, was
3 examined and testified as follows:
4

5 DIRECT EXAMINATION
6

7 BY MR. KAISER:

8 Q. Mr. Heflin, would you please state your full name for the
9 record and who you are employed by and in what capacity?

10 A. George B. Heflin. I'm with Equitable Resources Explora-
11 tion. I'm landman, lease acquisitions and pipelines.

12 Q. Do your responsibilities include the land involved here
13 and in the surrounding area?

14 A. Yes, they do.

15 Q. Are you familiar with Equitable's application for the
16 establishment of a drilling unit and pooling order for
17 EREM Well V-3121 which was dated November 10th, 1994?

18 A. Yes, I am.

19 Q. Is Equitable seeking to force pool the drilling rights
20 underlying the drilling and spacing unit as depicted at
21 Exhibit A of this application?

22 A. Yes, we are.

23 Q. Has Equitable applied for a permit and is a permit now
24 pending before the DMME?

25 A. Yes. The permit is dated November 30th, 1994.

1 Q. Does the proposed unit depicted at Exhibit A include all
2 acreage within 2,640 feet of proposed well V-3121?
3 A. Yes, it does.
4 Q. What was the interest of Equitable in the unit at the
5 time of application?
6 A. 97.52 percent.
7 Q. Are you familiar with the ownership of drilling rights of
8 parties other than Equitable underlying this unit?
9 A. Yes, I am.
10 Q. What is the percentage of unleased acreage at this time?
11 A. 2.48 percent.
12 Q. Are all the unleased parties set out in revised Exhibit
13 B?
14 A. Yes, they are.
15 Q. Subsequent to the filing of the application have you
16 continued to attempt to reach an agreement with the
17 respondents listed at revised Exhibit B?
18 A. Yes, we are.
19 Q. Prior to the filing of this application were efforts made
20 to contact each of the respondents and an attempt made to
21 work out an agreement regarding the development of the
22 units involved?
23 A. Yes.
24 Q. Subsequent to the filing of the application have you
25 continued to attempt to reach an agreement with the

1 respondents listed at revised Exhibit B?

2 A. Yes.

3 Q. And I think as a result of these efforts you have not

4 acquired any additional leases?

5 A. No, we have not.

6 Q. Were any efforts made to determine if the individual

7 respondents were living or deceased or their whereabouts

8 and if deceased, were efforts made to determine the

9 names and addresses and whereabouts of the successors to

10 any deceased individual respondents?

11 A. Yes, there were.

12 Q. Were reasonable and diligent efforts made and sources

13 checked to identify and locate any unknown heirs, to

14 include primary sources such as deed records, probate

15 records, assessors records, treasurers records and in

16 addition secondary sources such as telephone directories

17 city directories, family and friends?

18 A. That's correct.

19 Q. In your professional opinion was due diligence exercised

20 to locate each of the respondents named herein?

21 A. Yes, it was.

22 Q. Are the addresses set out in revised Exhibit B to the

23 application the last known addresses for the respondents?

24 A. That's correct.

25 Q. With the exception of those parties which you are hereby

1 dismissed from this proceeding are you requesting this
2 Board to force pool all other unleased interests listed
3 at revised Exhibit B?

4 A. Yes, we are.

5 Q. Does Equitable seek to force pool the drilling rights of
6 each individual respondent if living and if deceased, the
7 unknown successor or successors to any deceased individual
8 respondent?

9 A. Yes.

10 Q. Are you seeking to force pool the drilling rights of the
11 person designated as trustee if acting in the capacity of
12 trustee and if not acting in such capacity are you
13 seeking to force pool the drilling rights of the successor
14 or of such trustee?

15 A. Yes, we are.

16 Q. Mr. Heflin, are you familiar with the fair market value
17 of the drilling rights in the unit here and in the
18 surrounding area?

19 A. Yes, I am.

20 Q. Could you advise the Board, please, as to what those are

21 A. A \$5 per acre consideration, a five year term with a
22 one-eighth royalty.

23 Q. Did you gain this familiarity by acquiring oil and gas
24 leases and other agreements involving the transfer of
25 drilling rights in the unit involved here and in the

1 surrounding area?

2 A. That's correct.

3 Q. In your opinion do the terms you have testified to
4 represent the fair market value of and the fair and
5 reasonable compensation to be paid for drilling rights
6 within this unit?

7 A. Yes, it does.

8 MR. KAISER: Mr. Chairman, at this time we'd ask once again
9 to incorporate the previous testimony as to election
10 options, participation and escrow.

11 MR. CHAIRMAN: Okay. Granted.

12 Q. (Mr. Kaiser continues.) Mr. Heflin, who should be named
13 the operator under the force pooling order?

14 A. Equitable Resources Exploration.

15 MR. KAISER: I have no further questions of this witness at
16 this time.

17 MR. CHAIRMAN: Any questions, members of the Board? On your
18 location plat map at 2:00 you have at tract eleven a
19 little square area blocking the corridor off over there
20 -- two areas up in this corner. What's happening there?

21 MR. HEFLIN: That is a large tract and as you see we have land
22 books.

23 MR. CHAIRMAN: Tying that to tract eleven?

24 MR. HEFLIN: Exactly. That's a contiguous tract. That tract
25 extends on outside of the unit.

1 MR. KAISER: Does Equitable Resources own that tract in fee?

2 MR. HEFLIN: Yes, we do.

3 MR. HARRIS: It's called a land hook?

4 MR. HEFLIN: Right.

5 MR. HARRIS: Is that a standard symbol?

6 MR. HEFLIN: Right. That shows where your contiguous are going
7 from tract to tract to tract.

8 MR. CHAIRMAN: I didn't know when you had it quartered off up
9 there in the corner like that if there was something
10 omitted or --

11 MR. HEFLIN: No. It's just the way the tracts came in
12 together. The oil and gas ownership is one in the same.

13 MR. CHAIRMAN: Thank you. Any other questions?

14 (Witness stands aside.)
15

16 ROBERT A. DAHLIN, II

17 a witness who, after having been previously sworn, was
18 examined and testified as follows:

19
20 DIRECT EXAMINATION

21
22 BY MR. KAISER:

23 Q. Mr. Dahlin, could you please state your full name for the
24 record, who you're employed by and in what capacity?

25 A. Robert A. Dahlin, II and I'm employed by EREX as an

1 production specialist.

2 Q. And have you previously testified before the Virginia Gas

3 & Oil Board and have your qualifications as an expert

4 witness previously been accepted by the Board?

5 A. Yes, sir.

6 Q. Do your responsibilities include the land involved here

7 and in the surrounding area?

8 A. Yes, sir.

9 Q. Are you familiar with the proposed exploration and

10 development of the unit involved here under the appli-

11 cant's proposed plan of development?

12 A. Yes I am.

13 Q. Would you please state the total depth of the proposed

14 initial well under the applicant's plan of development?

15 A. 5,490 feet.

16 Q. I've got 4,595 feet.

17 A. Okay. 4,595 feet.

18 MR. KAISER: Let the record state the proposed depth of the

19 well will be 5,495 feet.

20 Q. (Mr. Kaiser continues.) Will this be consistent with the

21 formations listed in the well work permit?

22 A. Yes, it will.

23 Q. And will this be sufficient to penetrate and test the

24 common sources of supply in the subject formations?

25 A. Yes, sir.

1 Q. Is the applicant requesting the force pooling of conven-
2 tional gas reserves not only to include the designated
3 formations but any other formations excluding coal
4 formations which may be between those formations design-
5 ated from the surface to the total depth drilled?
6 A. Yes, sir.
7 Q. Will the initial well be at a legal location?
8 A. Yes, sir.
9 Q. What are the estimated reserves of the unit?
10 A. 400 million cubic feet.
11 Q. Are you familiar with the well costs for the proposed
12 initial unit well under the applicant's plan of develop-
13 ment?
14 A. Yes, sir.
15 Q. Has an AFE been reviewed, signed and submitted to the
16 Board?
17 A. Yes, sir, it has.
18 Q. Was this AFE prepared by an engineering department
19 knowledge in the preparation of AFEs and knowledgeable in
20 regard to well costs in this particular area?
21 A. Yes, sir.
22 Q. Does the AFE represent a reasonable estimate of the well
23 costs for the proposed unit well under applicant's plan
24 of development?
25 A. Yes.

1 Q. Could you please state for the Board both the dry hole
2 costs and completed well costs for this well?
3 A. Dry hole costs are \$139,150 and the completed well costs
4 are \$245,250.
5 Q. Do these costs anticipate a multiple completion?
6 A. Yes, sir.
7 Q. Does the AFE include a reasonable charge for supervision
8 A. Yes, sir.
9 Q. In your professional opinion, Mr. Dahlin, will the
10 granting of this application be in the best interest of
11 conservation, prevention of waste and the protection of
12 correlative rights?
13 A. Yes, sir.
14 MR. KAISER: I have no further questions of this witness, Mr.
15 Chairman.
16 MR. CHAIRMAN: Questions, members of the Board?
17 (Witness stands aside.)
18 MR. HARRIS: This is just so minor that I really hate to bring
19 it up, but on the front of the AFE it says project and
20 well location it says state and county and you have
21 Wise. We may have been doing that all the time. I don't
22 know. Since that says state and county should we be
23 saying Wise, Virginia? Like I said, this is very minor.
24 MR. KAISER: It does say a new Virginia well up above that.
25 MR. HARRIS: Yeah. It's probably not necessary.

1 MR. EVANS: That's for your internal stuff.

2 MR. KAISER: Yeah.

3 MR. DAHLIN: We do have some various forms that particular
4 engineers use.

5 MR. HARRIS: It's not an important issue then.

6 MR. CHAIRMAN: Other questions?

7 (Witness stands aside.)

8 MR. KELLY: Mr. Chairman, I move the application be approved.

9 MR. LEWIS: I second it.

10 MR. CHAIRMAN: We have a motion and a second. Any further
11 discussion? All in favor signify by saying yes. (ALL
12 AFFIRM.) Opposed say no. (NONE.) Unanimous approval.
13 Thank you.

14 MR. KAISER: Mr. Chairman, I'd like to take this time to thank
15 the -- since it's the last docket of the year to thank
16 the Board for their efforts and their patience and all
17 their good deeds. I know you don't always feel like
18 you're particularly appreciated but I know that we
19 appreciate you and Equitable Resources appreciates you.
20 We'd like to wish you a very merry Christmas and a happy
21 New Year.

22 MR. CHAIRMAN: Thank you very much. Merry Christmas to you on
23 behalf of the Board to all of you.

24
25 (End of Proceedings for
December 13, 1994.)

CERTIFICATE

COMMONWEALTH OF VIRGINIA
COUNTY OF WASHINGTON

I, Deborah J. Bise, Notary Public in and for the Commonwealth of Virginia, at Large, do hereby certify that the foregoing is a true transcript of the proceedings had in the Virginia Gas and Oil Hearing on December 13, 1994; that all said proceeding was electronically recorded and was reduced to writing by me and that said transcript is true and correct to the best of my ability.

I further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the outcome of this action.

GIVEN under my hand this 4th day of January, 1995.

Deborah J. Bise
DEBORAH J. BISE
NOTARY PUBLIC

My commission expires September 30, 1996.